

We find it unnecessary then to, indeed we may not in accordance with established law, inquire into the constitutional questions raised. *Siler vs. Louisville & N. R. R.*, 213 U. S. 175.

Let a decree in accordance with this opinion be prepared and filed.

### NINTH DAY.

Senate Chamber,  
Austin, Texas,  
July 27, 1931.

The Senate met at 9 o'clock a. m., pursuant to adjournment, and was called to order by Lieutenant Governor Edgar E. Witt.

The roll was called, a quorum being present, the following Senators answering to their names:

Beck.	Parr.
Berkeley.	Parrish.
Cousins.	Patton.
Cunningham.	Poage.
Gainer.	Pollard.
Greer.	Purl.
Hardin.	Rawlings.
Holbrook.	Russek.
Hopkins.	Small.
Hornsby.	Stevenson.
Loy.	Thomason.
Martin.	Williamson.
Moore.	Woodruff.
Neal.	Woodul.
Oneal.	Woodward.

Absent—Excused.

DeBerry.

Prayer by the Chaplain.

Pending the reading of the Journal of yesterday, the same was dispensed with on motion of Senator Woodward.

### Petitions and Memorials.

(See Appendix.)

### Committee Reports.

(See Appendix.)

### Bills and Resolutions.

By Senator Loy:

S. B. No. 10, A bill to be entitled "An Act repealing Chapter 185, page 455, Acts of the Regular Session,

Thirty-ninth Legislature, relating to the right of foreign corporations to own stock in and participate in the management and control of domestic corporations; and declaring an emergency."

Read and referred to Committee on State Affairs.

### Senator Excused.

On motion of Senator Moore, Senator DeBerry was excused for the day on account of illness of relatives.

### At Ease.

At 9:08 o'clock a. m., the Senate stood at ease subject to the call of the Chair, on motion of Senator Woodward.

### In Session.

The Senate was called to order at 12:10 o'clock p. m. by Lieutenant Governor Edgar E. Witt.

### Notice of Intent.

Senator Williamson gave notice that tomorrow morning he would offer a resolution to discontinue the hearings of the State Affairs Committee tomorrow afternoon.

### At Ease.

On motion of Senator Woodward, the Senate, at 12:05 o'clock p. m., stood at ease subject to the call of the Chair.

### In Session.

The Senate was called to order at 6:30 o'clock p. m. by Senator Moore.

### Resolutions Signed.

The Chair, Lieutenant Governor Edgar E. Witt, gave notice of signing, and did sign, in the presence of the Senate, after their captions had been read, the following resolutions:

H. C. R. No. 4. H. C. R. No. 5.

### Adjournment.

On motion of Senator Pollard, the Senate, at 6:45 o'clock p. m., adjourned until 9 o'clock tomorrow morning.

## APPENDIX.

## Committee on Enrolled Bills.

Committee Room,  
Austin, Texas, July 25, 1931.  
Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Enrolled Bills have had S. C. R. No. 3 carefully examined and compared and find the same correctly enrolled.  
GREER, Chairman.

## TRANSCRIPT OF TESTIMONY.

Monday, July 27, 1931, 9:30, a. m.

The Committee on State Affairs was called to order by the Chairman, Senator Joe Moore.

Senator Gainer: I have for presentation this morning a witness in this case, and when you are ready to consider that matter I would like to present him, Mr. Ed. H. Mayer, of Amarillo, I would like to present Mr. Mayer this morning and hear his testimony.

The Chairman: Mr. Ed. H. Mayer, of Amarillo. Be sworn, Mr. Mayer.

(Thereupon, the witness was sworn by the Chairman.)

Mr. Mayer: Mr. Chairman, Ladies and Gentlemen of the Committee: To me this is an opportunity to represent here before you the case or position of the independent oil operators of this State, the consuming public of the State of Texas, and the land owners of the State of Texas and all of these cities and towns throughout the State that are depending very largely on the prosperity of the oil business, for their continued prosperity, and I sincerely hope that I do not lose this opportunity or bungle it by reason of my failure to cover the important phases of this business in the State of Texas.

We are all gathered together here under a special call by the Governor to consider conservation. Now, ladies and gentlemen, anyone who would refuse to give fair consideration to the conservation of natural resources of this State, any witness who comes before you who refuses to do that is an enemy of society. I hope to differentiate between the practices that have been carried on in the oil business under the name of

proration that I think defeats conservation in this State, and I hope to be able to differentiate between the conservation and proration, discriminatory proration that has been practiced in this State for the last two years and which has been exterminating the independent producer, which has been defeating the income of the land owner in this State and demoralizing the business of this State. Now, you have to decide what conservation is before you can legislate. I will give you the answer to that. In the conduct of the oil business in this State conservation is that sort of legal regulation that will do the greatest good for the greatest number of people. Now, I think that is clear,—the greatest number of people engaged in the oil business, and for the consuming public who are also interested in the oil business in this State. Proration, on the other hand, as practised in the State, has been discriminatory, has been unfair, and has been illegal. Now, I hope to bring out the distinction between the practices in the oil business that will accomplish the results we are after, and that is conservation. In order to bring out those distinctly, and in order for you to pass on them here in the Legislature, you are going to have to know something about the oil business, and I am going to try as definitely as I can and as concisely as I can to save your time, to go through this business, step by step, and show you what the oil business is in this State and how you are affected as a consumer.

Now, I want to say first, that independent operators and land owners in this State have a very narrow and restricted view of their position in this oil business. A great many of them throughout the State do not want legislation of any character and in that regard they are standing on their personal and individual rights to go broke, because the independent operators and the land owners are subject entirely to local conditions in the place in which they live or in the counties in which they live, while the major oil companies operating in this State not only merely regard that particular pool as a unit in their business, but they regard the entire State of Texas as a unit in their business, those big companies doing a world-wide business, therefore, the point of view of the major companies doing busi-

ness in this State and the independent or home citizens producing oil in this State and the land owners, are entirely different. The major oil companies wish the oil business to be brought under control,—there is no question about that. But they would like to have it brought under control under rules under which they operate and by which the different fields in this State and the State itself becomes a unit in their operations. The independent oil man is afraid of legislation because he only knows local conditions and to him local conditions are the market, which is not correct. Now, therefore, you ladies and gentlemen, have to view this thing first in a larger sense, this business in a larger sense, both in regard to the local fields and to the position of the State as to the whole industry.

Now, let me state this to you first, that ten per cent of any commodity, and oil is a commodity, that ten per cent of any commodity controls the price. Now, we are all interested in price. We can not legislate price, so we are informed, but we are all interested in price. What we want to know, as business men and I am a business man in this State that has got a million dollars invested in this oil business, and other lines affected by it,—what we want to know as business men is who is going to get this oil in Texas and what are they going to pay for it, and that is what interests the folks all over Texas. Also, you want to know what is the price of oil and gasoline to be in this State, and what is the least we are going to have to pay for it. I will say to you that ten per cent of any commodity controls the price in this State, of any big commodity. Now, that is true of wheat; that is true of cotton; and that is true of oil. But I want to draw this distinction about wheat and cotton, because of the argument that has come up here with regard to price structures. That oil is differentiated from wheat and cotton in that oil is not a crop in this State; oil is property; it is property that once found and seized and sold is forever gone. Now, cotton and other commodities are reproducible crops. That is the reason why the efforts to control their prices causes a stacking up of supplies by year after year production that breaks down any ef-

forts to legislate a price market, but oil is property that once seized, possessed and sold is forever gone, so therefore you are going to have to consider oil as property in this State and keep that well in mind. Now, why does ten per cent of a commodity control a world market, or a market in the United States, or any particular country? It is for this reason. That whenever this country produces ten per cent more than is consumed of any commodity, they have to ship that commodity out to the world market and the price is set by what the market will pay for that commodity less the freight. Now, whenever this country consumed ten per cent more of any commodities than is supplied, then the price is fixed by what other countries will sell that commodity to this country for, plus the freight. Now, the ten per cent ratio is because of the storage capacity of the commodity. Having that in mind, that ten per cent of any commodity controls the price, then you should bear in mind that there is no law of supply and demand in this country with regard to oil. The law of supply and demand has been defeated and is not operative. How has that been brought about? It has been brought about through the fact that the large major oil companies,—and I want to say to you now that there is a split between the major oil companies which I hope to clarify to you,—there is a split in this country between the major oil companies as well as among independents on that matter. The large major oil companies, by a vertical set up,—what is a vertical set up? That is through the control of subsidiary companies, or other agencies, first controlling the leasing of land, the producing of oil from land, in another department called the purchasing department, purchasing of oil, carrying on a department for the transportation of oil, having another department for the refining of oil, and then having a department for the direct selling of those refined products to the public. That is a vertical set up. From the production to the final dollar that comes out of your pocket for the product. That is the ideal set up in any business for big profit. Now, gradually over the last five to ten years we have seen these giant companies formed mostly by mergers.

Some different companies have been working in these different fields and by merging they have got this big vertical set up. The law of supply and demand has been defeated here by getting that ten per cent of oil from foreign countries and bringing it to this country to where it will control the price, so the price structures are being depressed by the importation of foreign oil,—and let me mention right here that the big major companies are also big producers themselves in the fields, through subsidy companies, it has thrown the price structure directly into their hands. Now, a law properly drawn and intelligently drawn will defeat to some measure the severance of the value of this oil from the land and onto the market. I think we can do that in the name of conservation of the resources of this State. We have heard here a lot of talk about the market price of oil, and the market price of crude oil and its refined products. We haven't heard much about the market value of these articles. I want to state to you that statistics clearly show, and no doubt will be put in your hands here, that there has been no overproduction of oil in this country, therefore, if there is no overproduction of oil, there is no reason at all for cutting the sale price of these products, the sales value of the oil, and the intrinsic value of this oil, or cutting that away from the value of the land and of the production in this State. Now, I also want to state to you that there is no such expression as "economic waste." That has been largely used in the discussion of this industry,—economic waste.

Senator Martin: State that again.

Mr. Mayer: There is no such expression as economic waste. That word has no meaning because whenever this State is producing oil at ten cents a barrel, that is not waste, because somewhere else, somebody else, gets the benefit of that price. It is not waste, somebody is profiting by it. But, there is such an expression, ladies and gentlemen, as economic loss in this State and that is what I am going to discuss—economic loss. There is a tremendous economic loss in this State going on that influences the prospects of this State to the extent of twenty-five per cent of its business. In other

words, by cutting the price of oil to ten cents a barrel the prosperity of this State was reduced by twenty-five per cent and the immediate action of it was, and the reflection of it was you were called down here to meet in this legislative meeting to see what remedy you could apply. Now, the intrinsic value of oil is gotten at very quickly. The intrinsic value of oil in this State is that value at which any substitute could be gotten to take its place. In other words, the natural gas blown away from these wells all over this State has got an intrinsic value. That value is what it would cost to make gas in this State to sell to the people. Gas is made from coal and coke and all, and ladies and gentlemen, I used to manufacture gas in this State and I can tell you that it will cost at the plant seventy cents per thousand to make gas. I manufactured and sold gas in this State to your citizens and it cost seventy cents a thousand to make that gas when we burned coal and coke and oil and employed labor and built a plant to manufacture the gas and that cost seventy cents per thousand. And the overhead cost of that gas in the mains is a dollar per thousand and this considering the fact that that gas is worth less than natural gas. Now, the intrinsic value of oil is one of the things that we must consider because these oil wells, most of them are going to be replaced with shale oil. I went to Colorado where they had put up a million dollar plant in order to make shale oil. That was some five or six years ago, and it was the agreed policy, that is about six or seven years ago, it was the agreed policy of the United States Government that the oil in this country, that the end of the production of oil in this country was in sight. In other words, it would not be but five or six years before we would be out of oil and that we would then have to turn to other sources to get oil. I went to Colorado and attended the oil men's convention, that was a convention of the shale oil men, in which I learned it cost at that time four dollars a barrel to produce it, and the expenditure of millions in plants to produce it. It was stated at that time by one of the experts that at that time it was costing four dollars and fifty cents to produce shale oil, but by the use

of a little more modern methods the cost could be reduced to four dollars a barrel. At that time it was predicted that it would not be long until oil would be worth and would be selling for four or five dollars a barrel, and a great shortage was in sight.

Now then, that national unrest that happened at that time and the apparent shortage of oil resulted in this: geologists were employed and went out all over the world to find big oil fields, and they went all over the United States in the hunt for structures to produce oil, and then out of that great campaign and employment of technical skill, together with later oil field practices came all of these new fields and also came a flood of imported oil from South America. That has been dwelt on by these various speakers that have been before you and I won't stop and take up your time to go into that. I take it for granted that all of you know that there is ten per cent of oil standing on our door step from foreign countries that will control the price of oil in this country, and therefore control production; because when you control the price you control the production; you either stimulate it or depress it. And so then, this oil has an intrinsic value to this State; it means something, it is something that should be conserved, and it is going fast in this State. It is an economical loss to this State, not a waste, but an economical loss to this State of its most valuable heritage. I say to you that this East Texas oil field is worth five billion dollars to this State. I know that is a big figure, but I could make it bigger. Under conservation that wealth will be conserved. I see no reason why this State should take an economical loss to benefit the whole world and that is what is going to happen. I do not believe we should take all of the loss; of course, we are going to take some, but as it is we are taking more than our share and that is what I want to show here.

Now, there is another angle of this thing and that is when folks in the State of Texas come down here, either singly or in groups and take out a charter under the laws of the State of Texas to go in business in the State of Texas the integrity of

that investment here should be protected under the laws of this State. This Legislature does not meet here only to lay out taxes, franchise and otherwise for these companies but they also meet to protect the integrity of financial investment in this State. That is another matter I want to bring out later.

Very briefly I want to touch on the land owners of this State. Particularly they are subject to local situations, and the independent producers are subject to local conditions, but the major oil companies are not subject to local conditions or any one particular field or any particular state. Both those fields and the states are merely units in their world wide business. Also there is another feature with reference to these cities, such as Amarillo, where I live, and Wichita Falls, Fort Worth, Dallas and the different cities all over the State, they are also subject to local conditions of the oil business, as is reflected by the prosperity in those cities which has caused the building and expansion of those cities in the last ten or fifteen years.

My theory is to conserve as much as possible so far as the State of Texas is concerned. I think we should preserve this priceless heritage by conservation and a prevention of waste. Secondly that it is up to this Legislature to preserve the rate of exchange. Now, please understand what I mean by that, the rate of exchange as to the price of oil and gas in this State. You cannot legislate price but you can legislate with the idea of the rate of exchange in mind. Now what do I mean by that. I mean simply this, that any state or country prospers directly or indirectly as to the rate of exchange for the commodity it produces, whether wheat, cotton, oil, cattle or anything else, that they prosper in direct ratio to the price of those commodities as compared to what they have to pay in exchange for what they get. I will tell you what the rate of exchange of oil is right now. While on this subject I might digress to introduce myself a little further to you, by stating that when I got out of school I was engaged for six years in the manufacture of artificial gas; then I was superintendent of a water company, a municipal water com-

pany; next I was superintendent of an electric company; next I was assistant manager and result as engineer for a refining company which had nine big refineries located in three different states; thereafter, I bought a half interest, or forty-eight per cent of a gas company in this State and I operated that, and I am now the president of six oil companies in this State and one hotel company. I wanted to state that to simply show the experience I have had in this business. Now in protecting this rate of exchange let me show you by going back to the refineries, and tell you what I can do. I can take twenty barrels, twenty steel barrels and carry them to the East Texas oil field, and fill them with oil for two dollars, and that is the sweetest oil ever produced in this country anywhere, with the possibility of the Cattlemen Kettle Hills oil in California. I can take that twenty barrels of oil to my refinery and refine it and get twenty per cent lube oil, forgetting the rest of it,—or to put it the other way round,—I can take that same twenty barrels and fill them up with lubricating oil and ship them into this State, and for this product for which I have paid two dollars I can get one thousand and eighty-four dollars for sales to the folks in this State of Texas. Now, at that rate of exchange this State cannot survive in the oil business; it has given its oil away that makes possible that sale. I am going into that a little later on.

First preserve that priceless heritage; second protect the rate of exchange; and with that thought in mind with your legislation, and I hope that you will protect the public against high priced structure on gasoline and other refined products. How are you going about accomplishing that? Simply when you legislate bear in mind that legislation wants to be aimed at keeping in business the independent producers and refiners in this State, because it is because of them that you are enjoying gasoline at ten cents a gallon today; and that fear they are under will be passed and they will be able to get the oil and you will be able to build up more industries. In other words, the oil will be refined in this State instead of going out and you

will get the benefit of it. Now, ladies and gentlemen, I have been talking to you about the different phases, the economic phases of the oil and gas in this State and how it affects the consumers of this State and how it affects the biggest industry in this State and its relation to the outside market. If I have not made anything clear to you I hope when I get through with my talk that you will question me directly about it. Now, I want to go into the practical side of the oil and gas business from the operators' standpoint, and that is the phase you are going to have to understand, because after all no matter what kind of legislation you are going to put over it is the machinery of the application of this legislation that either beneficially affects the business or depresses it; so that the machinery of any legislation you may put into effect would, in the last analysis govern to a large extent the measure of prosperity of the oil business in this State.

Now if you will permit, I do not wish to impose on you by taking up your time, but if you would permit me about a ten-minute discussion of the oil business, in other words, the A, B, C's of the oil business, because I have worked in every department of the business for many years, it might be that thereafter you will catch the distinction of the meaning of some of the laws that are applied to the oil business and the rules and regulations that are applied in the oil business. Without knowing the A, B, C's of the oil business it would be hard for me to show you and hard for you to make the distinction you ought to make to draw conservation legislation. If you have no objection I will tell you as rapidly as I can what oil is and from whence it comes.

Senator Martin: Consider the cost as you go along.

Mr. Mayer: I will give you that later on. Up to ten years ago oil was thought to be volcanic in its nature. I have a book on my desk by Wilcox, in which he states of all of our oil as being volcanic. Practically all of the laws of our country refer to oil as a mineral, and because of that fact we have had a great deal of confusion of the oil and gas business in this country, and because of that condition we have

had a riotous production of oil in this country.

Now, geologists have found a condition going on right now that supplies oil, to a very small extent, that fairly shows how it arrives at its derivation in the earth, millions of years ago, at a time when geology shows, how geology is simply a study of time by turning over the leaves of the strata of the earth which discloses the various animal and vegetable condition of the earth which formerly existed. That great so-called shale deposits were nothing more than deposits of slimes and muds following times of terrific rains and times of heat that visited the earth, and in these slimes and muds a little protoplasm lived by the millions. Those tiny little protoplasms possibly lived but a few hours, and each of those protoplasms had a tiny bit of oil in it, possibly no bigger than a needle point, and in those countless millions of protoplasms this oil is later gathered together in the earth under a heavy hydrostatic pressure, and under the pressure of enormous heat, this oil was gathered together and later accumulated in sands, or in a reservoir down in the earth. Now, understand that these sands are not the derivation of oil but they are merely the places of accumulations for their oil, because of their more porous formation. Now the void in the sands is about twenty-five per cent of its volume. In other words, if you take a brick and throw it in a bucket of water and leave it all night, the next morning it will have a twenty-five per cent increase in weight, in other words, the void of that brick has taken up that much water. So down in the earth we have an accumulation of oil in the sands and in such reservoirs that amounts to 25% of the volume of that particular stratum. Now bear in mind that this accumulation of oil is according to the specific gravity, the accumulation, of oil, water and gas is relative, according to their specific gravity. The great oceans of salt water which permeate these lower strata in the earth, and the accumulation of oil and gas in the earth comes about through the folding of the earth crust, the same as in the case of an apple set in a window sill and allowed to stay there for a month; it shrivels up and get wrinkles all over

it, which is the same way with the earth. The folding in the earth is the oil and gas that has accumulated according to their specific gravity, its relation to the salt water areas around them in these structures. If I had five gallons of water, and one gallon of oil, and three gallons of gas in a container, the water would be in the bottom, the oil on top above the water, and the gas would be on top of the oil; so it is in these great holes in the earth, the gas has accumulated in the top above these folds, and the oil takes its relative position according to its specific gravity, and with relation to the salt water table, which surrounds this dome. Engineers can go into the ramifications of geology and tell you about the various sides of it, etc., but I am merely giving you a rough theory of how oil and gas is accumulated. Now what happens when you puncture the top of one of these domes by drilling? And what is the effect on production of over-drilling, and what would be plain regulation of that in order to prevent loss to the State, and loss to these different property owners? Those are facts you are interested in. When you punch a hole down into the earth into the top of one of these domes you find this oil and gas, the pressure varying from 450 pounds to the square inch, generally speaking, up to 1600 pounds to the square inch. It isn't possible for the human mind to make an analogy as to those pressures in the handling of appliances above ground that we are used to. A steam locomotive boiler has a pressure of about 200 pounds to the square inch. I have known a stationary boiler going 1000 feet into the air, where the bottom blew out due to the sudden expansion of water in the boiler. When they puncture this dome where this oil and gas is contained, at these high pressures, what happens? I have been in a water well, some three or four hundred feet deep, and I found tunnels and caverns leading off into the ground. This was a water well that had washed in parts of earth and rock, and the water coursing around was really boiling springs coming into the well. So down in the earth when they puncture this dome and bring in a 20,000-barrel pressure, there is a tremendous gushing of the oil through those sands, and a release

of this pressure, which lets the water come in.

Now I am going to get the engineer's phase of this in a minute, and I want to state that I heard Mr. Foran talk about this all day. Now, in my opinion, the proration plan advocated by him was contrary to common sense, and from the standpoint of conservation, I do not think it was good engineering practice, and I expect to show you that very rapidly. In order to tell you why I state that, I will tell you first that the oil men have never got this out of their minds about the law of the jungle prevailing in the oil fields, and that they should produce all they can themselves and the fellow that gets there first with the most money and the most equipment gets all the oil and the fellow who has not the money and equipment, the devil take the hindmost. Now I must show you that the plan advocated is contrary to good engineering practice. I will give you a good example of that. This gentleman here and the two at this desk, say, have discovered an oil field on their property. This man has a 20,000 barrel oil well; this man has a 1,000 barrel well; and this man has a 500-barrel oil well; and all the rest of you folks have 50 and 100 barrel pumping wells around the State. Now, under proration as advocated here, he said this, that it is proper to prorate production of these various wells. Now let's see what happens, and this is what has been going on in this State under the supervision of these advisory committees, so-called. Now, under proration these operators right here would be willing in the name of conservation, to cut down from 20,000 barrels to 10,000 barrels a day. Certainly they would; they are not hurt. Ten thousand barrels a day you could get rich on especially if your idea is to maintain the price while you are doing that. Now, these men over here with 1,000 barrel wells cut down to 500 barrels, not so bad. Now these men over here with 500-barrels cut down to 250 barrels; not so hot, but when you come down to these little producers, around Amarillo, and Wichita Falls and other places, and they have to agree to cut that proration in two and cut a 50-barrel well down to 25-barrels, and a 25-barrel well down to 12 1-2, and a 12 1-2 down to 6 1-4, that don't look good, because they are barely getting enough as it

is, and only operating because they can show a narrow margin of profit at the time the plant is put in. So in cases of this kind you have not one that is of the greatest good to the greatest number of people. The facts of the matter are this: Big production is generally and nearly always owned by big companies. If they don't own it they will buy it. In the factors of production are so great that they must get this big production. In the case of the East Texas field, they helped the alternative if they didn't own this big production, they could agree to this conservation rule, because by cutting the price down to 10c a barrel they could take 250 barrels of oil for the price of drilling a well. Certainly it is cheaper to take this oil of the other fellow's than to dig a well, so they agreed to proration. So I say that plan of proration is contrary to the good of the industry and to the welfare of all the people. Now, I say it is contrary to good engineering practice. And why? Because it does not make any difference whether that plan is operated 100 per cent or 50 per cent, the principle is exactly the same with regard to bringing in a new field, and that is if they—if a big well is allowed to produce even under this proration plan, 10,000 barrels a day, at that one point, that oil is being released at a tremendous differential at pressure in that dome. That is, that rock pressure is being released suddenly in large volume, and this salt water allowed to course in to that field through that point of least resistance, and that water, by infiltration and saturation shuts off areas in that field which can never be drained afterwards. It creates an emulsion down there of oil and water. Now, I do not think that unitization if carried on under that plan, is good engineering practice from the standpoint of conservation. I don't believe it good practice. If they limit production of all wells and take the oil uniformly out of this dome, I believe that the recovery would be probably 30 to 50 per cent more than under present methods in the gas field. That is conservation, that is equity for the latest member in the field. If in a new field no more than 500 barrels a day could be taken from any well in the field at any stated time,—later they could raise it or lower it, as required—then you would have true conservation, because



every operator would be getting his pro rata part of the market, and would not be a few men producing a large volume of oil at the expense of the others. At present there is a great economic loss of a billion dollars to the State, while these fellows are having their fling. Proration as applied has simply done this, and I am citing my own case and that of a thousand other operators in the fields of Texas. In a general rule, and I want you ladies and gentlemen to know where this rule came from, the major oil company operates all over the State, and any given field is only a unit of their operation, but you who are owners and independent operators are subject entirely to local conditions in a particular field. Now, how does that operate? They had a meeting in Fort Worth of all the operators in the field. I was chairman of the first meeting, there were 2,000 oil men gathered in Fort Worth, and they agreed to prorate for the good of the business, and not a one of those men realized how those rules would be applied later on, and what it would do to them. Up in Hutchinson and Gray counties I attended those meetings. That is where I operate, and they agreed to prorate. They had in mind maintaining the price of oil. Of course that meeting was illegal, because whenever operators meet and formulate a combination to jack up the price they are in a combination to restrain trade, so that would estop them from coming into court to seek redress in equity afterwards, if they did not like the rules. At these meetings I will name a few of the companies who were present and represented. That means that some employee of the company was there; the Texas, Humble, and the Gulf—and I could go on and recite a number of them; you are familiar with the big companies,—all had their employees at this meeting, and there were also a number of little land owners and producers who had a vague idea what was going on. In a like manner in another county, there was another proration meeting going on. The employees of the big companies and the land owners and small producers who don't know anything about this meeting in the—As a result of that, five or six companies actually dominated the policy through their employees of every different field in the State. Operators in the Panhandle had a very

hazy idea what was going on in the Gulf Coast area in the Winkler County, Texas, areas; they had no knowledge of that. But to these big companies, these various fields were only a unit in the operation of their business. So with some hesitation proration committees were organized and it was found afterward and will be found now by investigation, that the major companies dominate these committees to further line up the business into one unit, the Central Proration Advisory Committee was organized, and if you will examine the personnel of that you will find the majority of the members of it are also these same major oil companies.

Now, my engineer in stating he was an employee of them—Mr. Foran,—he drew a picture of this proration and unitization—he made you a big talk about that. Unitization means simply every producer in their field coming into a common pool and turning the management over to one company for organization. I don't think the people will ever agree to turn over 100 miles of oil fields to one big company for organization, for when they do that they have kissed their property good-bye for ever. Now that is proration. These engineers then went to whom? The Railroad Commission. Now how much power has the Railroad Commission in this State along that line? You have a conservation law and a few other laws. I came down last February and asked the members of the Railroad Commission not to operate these laws of the State. First they said, "We haven't any funds to operate. The Legislature set set out \$50,000.00 and Governor Moody set it off some where else, so we haven't any funds; therefore, we haven't any organization." I said, "Well, how are you presuming to sign these proration orders in the various fields in the State without direct supervision?" The answer was that around the State there are various committees making recommendations, called Advisory Committees, and that was as good information as they could get. In—

Senator Purl: Who was it told you that?

A. I don't remember which one it was.

Senator Purl: Don't you remember whether it was Terrell, Smith or Neff?

A. It was Terrell or Smith, one or the other. They did all of the answering, because Mr. Neff refused to do any answering. He flatly refused to answer any questions propounded him for 30 minutes, and finally he said, "The most evil-minded oil man in this State can realize that this committee is signing proration orders concerning business about which they know nothing about in this area," and he went on out of the meeting. Certainly these operators of a big oil company had been unitizing these fields, getting a collective management. They are all interested. These Advisory Committees amount to unitization of the fields all over the State. Did it work out to our advantage?

It did not, and I will tell you why: because when they brought this—well, first, we were subjected of course to the posted field price, which oil went down as proration went on, but we were subjected to the so-called overproduction caused by the East Texas field, and which, as I understand it, the only way they could control the East Texas field was to cut the price or cut development. Of course, that is a very favorable rule to the big oil purchasing companies as a measure of chastising the developers in that field, because it made them money to cut the price; they got their oil cheaper, so they got that oil progressively down to ten cents a barrel, and then discovered as they could get all the oil they wanted that it would not do to pay the old price in the old fields, so they cut the price all over the State. And what did they do then to the independent operators? They did this: they already had his production cut off, they had him under proration, worked it out under the cloak or mantle of law coming from the Railroad Commission, that he could not increase his production at these lower prices and save himself. Now, what do you think of that? When the price of oil went down from a dollar a barrel to twenty cents it stands to reason he would have to increase production, but the proration ruling forbade that. They began to lay men off and shut down; men took to the highways looking for work; they left their wives and children. I have personally gone out there with groceries this past

winter. The men were off looking for work. This supposedly conservation measure instead of doing the greatest good for the greatest number of people had been but a means to an end. They had it worked out and did obtain flush production of new fields at an arbitrarily posted field price and shut down or curtailed the production over the State to make that possible. Another thing, it cut out healthy competition. Let me tell you these big purchasing companies can get oil to keep in operation when the nearby fields are operated and the independent operators go out of business. So, then, I will concisely state what proration does and did. Discriminatory proration—and that is what it is as between fields—the majors have been able to reduce the rate or production and hold oil in one field in storage while taking the flush production of another new field at their own posted price and thereafter back the posted price in all fields. I don't think this state wants to be a party to any such program as that knowingly. Now, respectable operators have been put out of business by having their gross income cut down and all opportunities of producing oil at a fair price stopped; they were allowed only a certain amount, therefore abandoning their investments and losing employees and losing their credit rating, and don't forget that last is important in business. Now, land owners have had their income instantly reduced and their values of properties went glimmering, and don't forget that taxation is based upon what you tax boards regard as intrinsic values in those counties to maintain schools and to pay off bonds. Now, the commercial business of cities has been paralyzed and money is withdrawn from circulation. I am going to touch on that a little later. Now, major oil companies can buy in property of land owners and independents at ten cents on the dollar, and I don't think anybody will dispute that. Now, here is the medium by which those things are accomplished; in a large measure it was due to these Proration Advisory Committees' pyramiding up to a central committee which advised the Railroad Commission to put out the order that did these things. Now, there is an-

other medium that you have got to look at, and that is common carrier pipe lines in this state and their importance with relation to these various fields. In the oil business they are a connecting link to the market and should be regulated as such. They are common carriers. They get the right of eminent domain across my farm, which they did, and across my ranch for twenty miles, which they did, and the right of eminent domain as common carriers, and yet when they come in there they operate as private pipe lines. I don't say that you can't get oil shipped over them; you can; but they name the points of destination and name the rate, and the rate is the differential between the posted price in the field and the price at which—(answer interrupted.)

Senator Purl: Mr. Chairman, I would like for the committee to stand at ease long enough for these boys to distribute these books. Let's stand at ease for about three minutes.

The Chairman: The witness will proceed with his statement.

The Witness: Now, I had stated that we are not to overlook the common carrier pipe lines in this State, first, because the connecting link which it is by the local conditions in each respective field with the open market of oil, and I will state to you right now that the common carrier pipe line rates in this State are in my judgment away too high, as they represent as nearly as I can see it the difference in the posted field price in the field and the open market, and therefore represent all the spread to the producer of oil for the price paid to ship his oil from those pipe lines into the market, so he might as well sell to the major companies in the field. Another thing I want to call your attention to is that as far as I know in every case the common carrier pipe lines of this State are in the hands of subsidiary companies to these big major companies. Another thing, that the chamber of commerce—the Federal Chamber of Commerce report shows that last year while we had a panic in this State and oil producers were going broke and being shut in under proration on the theory of overproduction, which does not exist, in the open market, the

common carrier pipe lines made from forty to two hundred per cent profit on their capital stock. Therefore, I say that this legislation, when you draw it, shall take into consideration these common carriers, which are really privately owned companies owned by major companies in this state and dominated with a keen eye to the welfare of their competitors in this State. Now, the gas pipe lines—and I do hope that when you do legislate, if you do, you will not everlook the gas situation in this State and that you will include it along with oil. Now, the gas pipe lines are the controlling factor of posted prices in the fields for gas to the consuming public, because, bear this in mind, that common carrier gas lines are operated also as private lines which go to an objective and that objective is a franchise in some city and it is the controlling price for gas in that city.

It used to be a factor among oil and gas men in their relations to one another, but a condition has now developed especially in the Panhandle field where one great pipeline company is going down through the field and buying all properties here, there and yonder, straight through the field for a hundred feet, and the next thing is one of these giant pipe lines going to Kansas City, Chicago, Denver, all of the great markets of the mid-continent, and they are regarding this gas as their private production in that field, while men like myself who have been in that field since its infancy and who have done our best to conserve that gas, knowing its intrinsic value, having spent our money on wells to take care of the gas all over that neighborhood, find ourselves standing there and watching these big pipeline companies, by the purchase of a small percentage of the land here, there and yonder, drill their wells and draw this gas from the whole area. I brought in one big well of one hundred and twenty million cubic feet of gas, one of the biggest in the world, and a big pipe line is drawing the gas from that area, and another building there now, and I have watched the production of the well go down from 120 cubic feet daily to fifty million feet today, and in another two years it will be down to ten million feet. Both oil and gas,—but gas especially, is highly fugitive in the ground, and

anyone can get a hundred and sixty acres of land in a great big field and drain the gas from that field. There is no competitive market for these land owners and independent producers, and so you must take into consideration when you are legislating for conservation, that the gas as well as the oil, discovered and brought to the surface in these various wells or various parts of the field, must have a ratable taking outlet to these common carrier pipe lines or common purchasers. If you do not, then you are defeating conservation.

You have heard a good deal about market demand, and I understood the Governor stated,—and I heard somebody else reiterate that statement,—that he would not consider any bills in which market demands or market price was taken into consideration. I am not so sure that that does not belong in a bill, and I am not sure that it is not constitutional if you put it in there. The State of Texas has got an interest in this oil and gas. It is a public interest, it greatly affects the welfare of all the people in this State, in the conservation of these wells, from the standpoint of taxes. Who are you going to shift these taxes to? Last year the taxes were six million dollars from the oil fields; this year they will be one or two million dollars. Where are you going to shift that tax burden? To the farmer, when he is getting twenty-eight cents for wheat, and very little for his cotton? I don't think he can take it. The National Government today faces a deficit of a billion dollars, the next year it will be another billion dollars, and it is not without the bounds of possibility that this State can face a deficit. You had better watch these things.

Now, what is the market demand? You don't have to construe the market demand as it is now construed. The market demand as now construed is simply this, that five or six big major purchasing companies say that we will take so much oil over here at twenty cents a barrel, and then another field is brought in and they shift their scene of operations and announce that we will buy so many barrels of oil here at ten cents a barrel. That is not market demand, not at all. Market demand can be viewed in a larger sense than that. You can view it in its relation, in

the name of conservation, to the intrinsic value of the oil and gas, the reproducible value of it in this State, as the day will surely come when it will have to be reproduced in this State and paid for by the consumers. You can view it from the standpoint of what it will cost to bring this same oil and gas in from other countries, such as Oklahoma, or New Mexico, or this imported oil that is held like a club over the oil business of this company. You can take those same factors into consideration, and you can say in the name of conservation that the oil and gas produced from this State shall not be taken out over the general market demand and general market requirement, not only of the State of Texas, but every other state in the Union, and estimate in advance for the next twelve months the requirement and what will be accomplished by that? You will do away with this bobbing up and down of posted prices whenever you begin to look at it from the standpoint as the major companies look at it in considering the subject.

Now, what is waste? That is another question that we have used, or another term. If you look at the Encyclopedia Britannica you will find about four words for the meaning of that. I saw a bill not long ago that had a dozen meanings confined, winding up with, that is economic waste, which is no such thing. There is no such term as economic waste. I think any legislation put over here ought to clearly define what waste is. Waste is physical. It is not economic; it is not chimerical; it is not technical; its is physical, and it can be qualified and it can be defined clearly that you may circumscribe the powers of a commission who are out here exercising these rules in these oil fields and give some relief to independent operators and land owners providing a misconstruction is not put on that word. I have heard it said since I have been in Austin, and I have read this in the paper, that it was hoped—it was stated this way—that it was sort of conceded that the Legislature has no power to draw any law that will affect conservation, but that it was hoped that under the word "waste" the matter could be approached indirectly. Now, Gentlemen,—Ladies and Gentlemen,—I think, and this is the way that appears to me,—it is

possible and no doubt has happened that bills have gone through Legislatures which approached subjects indirectly, but I do not think this Legislature should pass a bill under which any subject can be legislated indirectly; I think you should go to the heart of it and legislate directly on it. Recognize your authority and the needs of the business and regulate directly. I think you are answerable to your constituents not to legislate indirectly, because if you do it, if these powers put in the hands of a committee are misused, you become a party to that situation.

Now, what is conservation? I will define that, I have talked some about it. I will say in brief that conservation is regulation of this oil business so that the greatest good can be served to the greatest number in this State so that the intrinsic value of oil and gas shall be realized, so that the value, or price of oil and gas can maintain above the reasonable cost of production. Otherwise, you have got an economic loss, and also that the sales prices to the public of gasoline, gas and other by-products is kept down to the point of healthy competition. I think that can be achieved in a bill. Now, how could that be achieved? This bill without claiming market prices, I don't believe in legislating prices, but I do believe in legislating with a strict eye to the economical conditions that create prices. First, to establish a qualified commission having authority and supervision to control all branches of the oil and gas business. That is for the purpose of conservation. Now, I said a qualified commission because if this august body was about, to install a hospital here they would not get a garage man or a grocery man, or a filling station man and put him on the board to supervise it and let the State pay for his education and mistakes. I say that commission ought to be qualified right in the bill and my theory about that qualification would be, first, a good lawyer, second, an engineer, and third a practical oil man. Those three men would make ninety-five per cent of the decisions that came before them. Naturally what is needed is speed and understanding, and they wouldn't have to do what has been done and that is to go out and get an advisory committee to

tell them what to do and later possibly to get them in hot water by having misadvised them. Second, provides that the commission shall regulate the production of crude oil and natural gas. They are doing that in a way and the courts have sustained it, but let this regulation look to them to prevent the economic loss, loss on all these wells in these fields around the various cities in this State. Circumscribe the authority of the commission as to the manner in which proration rulings shall be ordered. Circumscribe that authority, don't leave that wide open. If we have got such a knotty problem that all the oil men in the State, who refuse to let one another live the way it is, and this Legislature has to come down here as they have come and spend weeks to find out what to do and then turn the whole thing to three men and let them do as they please, how are you going to expect satisfactory supervision and regulation of the oil business or expect those three men to properly judge and properly know what should be done when all these folks in the State don't know right now what should be done. They would have to be super men. So you should circumscribe the authority of the committee as to the manner in which proration rulings,—define proration equally among the fields of the State. I don't mean by that barrel for barrel that should be produced around the State. We know that is not practical, but there are certain rules in equity that can be applied and I will tell you how that is done later. Third, provide that,—when I say provide, the provision of the bill should be such that observe this thing,—provide that the financial integrity of investment from the standpoint of capital and labor,—because our investment in labor is one of the most valuable things in this State to safeguard,—shall be protected by rulings that all small wells up to say fifty or a hundred barrels shall not be prorated. A lot of oil men will immediately say "Well if you prorate them all under a hundred barrels you will shut in every big well in the State." That is not true. When I say up to a hundred barrels, there are thousands of little wells that produce four, five, ten or twelve barrels, or produce by combination of power, and on beams,

and the reason I put the limit at a hundred barrels is that there is this distinction, there is a twilight zone in the oil business under proration where old wells which have produced their flush production and paid off the investment in past years are regarded as one kind of investment, they do not have to amortize the investment, it is already done, and that is merely an earning proposition. The other kind is where wells are drilled within the last years under proration rulings and bring in their flush production and are properly prorated to fifty or sixty barrels, they have no chance to get that investment out of them under those proration rulings. It is a hazardous business and a man that puts in twenty-five thousand or fifty thousand dollars in drilling a well should have some margin to get that investment out with fair rapidity, certainly not over a period of two years. So there will be a small ratio of those wells around a hundred barrels a day as you go down the scale, seventy-five, fifty and so on. You will find a great army of wells that hold up the prosperity throughout the various counties of this State will be little wells that should not be prorated. And also provide that those little wells that have such oil shall be released to market. You understand there are market restrictions now under proration, and out of that a statute has grown as defined by one court here lately, who said it was illegal, but ladies and gentlemen, it has been legal enough to put a great army of operators over this State out of business. Such oil shall be released to market, and further define some how large wells shall be prorated and regulate your market demand. Now listen, forcing the other operators with the same investment to take pot-luck with the rest of the State until better demand calls for better production. Using engineering practice in the production of the well; that is a good rule as it stops this coursing of salt water or releasing of that gas at one point unduly. You have heard of one operator standing on his individual rights and saying I have got a ten thousand well and I have a right to produce it. And he did that, and we have a picture of what it did to him. Even the most feeble minded oil man in the State

knows that it is better to produce five hundred barrels a day at a dollar per barrel than it is to produce five thousand barrels a day at ten cents a barrel. He may have the enjoyment of that five thousand barrels and he can walk around higher, and he is bowed down to more as a producer, but the result is the same, whether he produces five hundred barrels at a dollar a barrel or five thousand barrels at ten cents a barrel, and of course, what he is doing is throwing away the opportunity for future wells. He forgets the fact that it now takes two hundred and fifty thousand barrels of oil from one well in East Texas today to pay the cost of that well at a price of ten cents a barrel. So what does that mean? It simply means that you have got to step in and take these boys by the coat collar and regulate them and make them rich.

This bill should provide for the storage of oil. That storage proposition is of vital importance. There has been a great deal said about oil in storage, but the facts are that the oil in storage today in the ratio to the market usage of oil is no greater than they were back in 1925 and 1926 when oil sold at a dollar and ninety cents a barrel, it is the same old ratio. When they were using six hundred thousand barrels of oil a day from the State of Texas the storage was about, no, I will put that this way; when they were using six hundred million barrels a day in the United States, which is the market which comprises seventy-six per cent of the world's market, and which is the big rich market they are after, not some foreign country, at that time there was three hundred million barrels in storage, or about one-half of the amount consumed for the year. Today the consumption of oil in the United States, plus some small export, is a billion barrels and the amount of storage is about six hundred million barrels, the same old ratio, but last year, in 1930, while we had this panic and depression in the oil business, it is a fact the we not only had no over production, we had a great potential, whatever that means, it don't mean anything, they had a great over production with the imports of foreign oil plus our own production, they had to take oil out of storage, they were not building up any storage;

they took some forty or forty-five million barrels out of storage, and at the same time took over production, shut off the fields, prorated and cut the price.

Now, if you should provide for ratable takings for natural gas and protect the field practices by prorating back to the field what we know to be the legal market demand. Now that is equitable, that is sensible, and it is constitutional. If you presume to step in and regulate these properties in places where big gas lines are drawing this gas and operating under the name of common carriers and you demand that they properly preserve that gas by properly casing their wells and spending money to cement them and to place copper valves on them for the good of the State, and the commonwealth of the state, then you also have the right to see that they find an outlet for that market, then see to it that a fair share of the market value of that product is prorated back to them. Now that is the only place where I have found that the word proration has a real proper aspect to it. In other words, while they are producing, these fellows, operators and land owners, it might be a good idea to prorate a little of that product back to them and that is where you can do it, because all of their operations are confined to this State, they do not go out into the world like the big companies.

Provide that the commission shall have the proration of each field to meet the market requirement, meet the requirements of the market demand, and construe the word market demand.

As I said the market has been kept out of it, yet I am using these in a larger sense, and it is constitutional to use them here and absorb the others. I will have to explain just what I mean by that. Under the present plan or practice in the oil field, and understand in criticising these major oil companies I am only criticising the policies that have become operative in these fields. I know a great number of these men who are the executives of the big companies and they are fine men, but they themselves have become the victims of the policy in these fields where they need regulation.

Now, heretofore, in the proration programs which have been operating the major companies' representatives

sit down at a table or otherwise and nominate how much oil they will take from this field here or that field there or that one over there, and those nominations are based entirely so far as they are concerned on how much oil they can get over here at a less price in this field. In other words, that the so-called market price bobs up and down as the new fields come in where they can rush in and get oil at ten cents, and those operations are dignified as market demand in this State. Now, if the Commission is empowered to look at this situation in a large way and estimate what will be the limit in the State of Texas to meet market demand for a year, then you empower this Commission, and that Commission shall make the nomination on the field, and not the big companies. You have that opportunity to solve this problem in regard to distress oil, distress in the various fields in the State which affect old counties, and the prosperity of these towns and cities. To give you an idea of what I mean, a half dozen companies will turn in their nomination to the committee, then the committee takes the nominations of the oil companies or refining companies and others, and when they get through it may develop that nominations by these companies are not as much as the committee itself decides is proper for any given field over here. And what will that mean? That would mean that the rest of that oil that that field should produce will go out on to the open market, out from under the supervision of those controlling companies, and in that open market these men will find relief for that oil, the shutting in of which puts them out of business. That is not unreasonable, it is workable, and I would not be surprised if that plan would meet with the approval of the major companies, because they have a big job on their hands in an effort to hold in that other oil in some manner.

Number 7: Provides for the conservation of crude oil and natural gas when public convenience and necessity can be better and more cheaply served by foreign and other oil imported into the State. To order that crude oil or gas shall not be sold, purchased or exchanged or transferred at an unreasonably lesser price. I am looking at the consumer's end of this bill, the consumers of gasoline, and I

think the provision ought to be in this bill that would protect him from a price structurous.

Now, about that a minute. It shall not be sold, it will be unlawful to sell oil, transfer oil, exchange oil or export oil out of this State at an unreasonably lesser price than what oil can be brought into this State for from adjoining states or by these imports. Now that is true conservation, and will stop vicious practice of this oil coming into Texas, and the withdrawal of this priceless heritage and the economic loss to this State, and to the land owners of the State and the community, because they will be stopped from doing that at an unreasonable lesser price for which the same oil can be brought into this State. That will protect the land owners and producers because that word unreasonable lesser price can be construed in the court, yet it leaves a latitude in there to mean a condition which they have to meet any way.

It should also provide, this bill, that when this committee makes these nominations, or allows these nominations, for production of oil in this State that the nominations of refineries within the State shall be placed first above the nomination of those who would export or transport oil from out of the State, and in that way you will protect your home industries and keep a healthy condition in the State, keep independent oil refineries from getting their sources of oil cut off, and you will promote the industry in this State, and let these big refineries go about selling their oil over the world market instead of importing from other states.

8. "Grant the Commission power and authority to prevent waste, and construe the meaning of the word waste," no construction as to economic waste will have to be settled in the minds of the Commissioners, because when you folks declared you do not know what the word "waste" means, how then, can they be expected to know? Define that word "waste," and construe the authority of the Commission to use it.

9. Provide that the Commission is granted power and authority to effect reasonable conservation of oil and gas and construe the term—"reasonable conservation." I have already talked about that.

10. Provide for the Commission to formulate practical rules and procedure, which would make workable and practical all of the provisions provided for in the Acts of this Legislature.

11. Provide that all agencies operating in the oil and gas business, must operate under grants of public convenience and necessity, encouraging prospecting for oil and gas, protecting title to property, and construing the terms "proven areas," in oil and gas fields. This Commission has got to be shown how it will work. It must make a distinction between proven areas under regulation, and new areas, where we encourage the bringing in of new sources of natural wealth; we want to encourage that, and not cut that off. Now what is the big idea about having them take out a certificate of public convenience and necessity? I have heard one oil man say, "We are not going to want any legislation that will cause us to chase down to Austin every time we want to drill an oil well." Why not? It is the biggest business in the State. How can any Commission in the State keep up with this business and make decisions intelligently unless you force these oil men to come in and tell them what they are doing, what they want to do, where they are operating, and so on, and get a permit. The volume of business is big enough to warrant that. I was in a little gas company up in Amarillo that had a total investment of only about 30, or 40,000 barrels, and yet, you have got all kinds of rules and regulations, both State and city, by which a gas company operates to serve the public, and they live under those rules and regulations, and they live fairly. Now the oil business is a tremendous business. There is more invested in one lease than in that utility that I had, yet they presume to come in here, non-residents, and anybody, drift in here and proceed to put on a red-hot drilling campaign and produce oil, and flow it on the ground, or into tankage, or into a pipe line, without any control or regulation. The first essential in the machinery of this thing, if you are going to regulate this thing—or any part of it, is to have these operators come to you and get a permit of public convenience and necessity, and



when they sign it and subscribe to it before a notary public, if they later come into court, you have eliminated about 90 percent of this litigation as to their understanding of the law in this State and their violations of it.

12. Provide for the application for such certificate, hearings by the Commission to applicants, and provisions for issue.

13. Provide for the character of service and rates that must be rendered by pipe line agencies. Talk about the pipe line agencies, and I want to state that a common carrier one pipe line company—the Prairie Oil and Gas Company—the officials of whom are very good friends of mine—they published in the paper, and the uproar it caused in Kansas and Oklahoma and in the Panhandle of Texas—you probably read about it in the papers, after they put out a notice to producers, of which I am one, that in the future they could not convey any oil in their lines except their own oil produced by them, so in times of stress and emergency, such as we have now, there is a tendency on the part of the big companies to divert their use for the conveyance of their own oil, and that only, in their pipe lines.

14. Circumscribed the responsibility of the Commission and make them liable for acts. I think the machinery of this bill ought to be set up, and the powers of the Commission so thoroughly defined, as to the parts of business that I have covered here—and it can be done, and it won't take a very long bill either—well, this Commission becomes liable for its Acts, because it is those things that cause distress in oil fields.

15. Also by taxation, for the maintenance of a commission in sufficient amount to regulate different branches of the business, and maintain a laboratory to ascertain the intrinsic value of oil and gas produced in the State. You who heard Mr. Haywood, have some recollection of the report that he had which had been put out about this oil, about the sulphur content, about the low gasoline content. That same report was put out in the Panhandle field, which report cost me personally, about a half a million dollars resulting from such report. I think that

ought to be remedied as an excuse for price-cutting in the field.

16. Provide for some redress against the acts, rules and regulations of the Commission. All the bills that I have seen personally, and discussed, all made provision about how the Commission could come in and get redress against offenders of this Act, and those offenders so far as stated, were only the producers. And the Commission could get redress against them, and one bill provided for the marketization of the business of the producer. They had him all laid out in that bill. Now I claim that this bill, while it may do that,—and I am in favor of creating a Commission—I am in favor whenever we create a Commission giving it full authority to send forth its full rules and regulations, but I am also in favor of circumscribing the powers of that commission, and in the same bill also provide for full redress against the acts of the Commission. The penalty for infraction of rules and orders of the commission and for the enforcement and penalties for repeated and flagrant violations of this act, or established order, rules and regulations of the Commission. In other words, there ought to be two sets of penalties set out in that bill; one for infraction of the rules and regulations of the Commission where it is a first-time offense, and where the operator did not understand those things—and then a bill for repeated violations. Then I think we ought to go a little further, and provide for the flagrant violations of the rules of the Commission, or repeated or deliberate avoidance of the Commission's rules and regulations, and the quickest and best way to do that is to repeal a certificate of public convenience and necessity that they hold to operate in this State; in other words, stop their operations, and in case of a corporation, to provide for repeal of their charter.

17. To provide for the conservation of natural gas and crude oil under the provisions hereinbefore set forth, declaring a public interest in oil and gas, as natural resources needing regulation, and because of the State tax interest and State and school land. The State has an interest in these oil and gas interests from the standpoint of future gen-

erations in this State, and in the use of this great God-given inheritance which the State.

Now gentlemen, from the standpoint of the consuming public, in order that you may be given an idea of some of the practices in the oil business and the present methods of handling it, and to show you that there is no justification whatever for such price-cutting in these fields as will cause an economic loss to this State of about 25 per cent of its wealth, I am going to give you this schedule. In order to exemplify this thing I am going to take 200 barrels of crude oil obtained in the East Texas field, and run thru the refineries for you, so you will know exactly how this thing turns out. I am first going to run it thru the skimming plant of an independent oil company. The reason that the independent oil companies have skimming plants is because of the money involved in building a plant. This plant is nothing but a still—a boiler, in which oil is put and brought to a temperature of about 180 degrees, where the gasoline or hydro-carbon cut comes off and can be saved to commercial advantage. Now in this skimming plant and boiler plant, this oil is boiled at 180 degrees, and the gasoline comes off and goes thru condenser coils. It is condensed back to liquid or hydro-carbon, and thereafter washed with acid and sold on the open market, and that is good gasoline, and don't let anybody tell you that it is not good gasoline, because it was made in a little plant. The amount of gasoline they get, the average skimming plant, is about 14 gallons to the barrel. Now this is getting to some of the questions you want.

(May I ask that a little better order be had in here, I believe this gentleman is to that point which has never been spoken of here before, and I believe every man in this Senate is interested in knowing about it, and would appreciate quiet here until he has finished with this particular point.)

The Chairman: Members of the Senate and the spectators will please keep as quiet as possible. It is hard for a man to speak amid so much noise, and we are getting some information that is important, and we ought to give him as much attention as possible.

Mr. Mayer: All right, now. Now, I will rapidly review that. Two hundred barrels of crude going through a skimming plant which is just a boiling plant, and the condensation of gasoline through cooler coils, washing of that gasoline to sell to the public. Now, a skimming plant,—they only get about fourteen gallons of gasoline to the barrel, and the rest of that they generally call fuel oil, and sell it to—sell it on the open market as fuel oil. Now, that has been called economic waste.

Senator Martin: Would you mind telling us how much—. Tell us about that.

Mr. Mayer: Yes, sir; but I have to digress a minute.

Senator Martin: All right.

Mr. Mayer: As I stated, there is no such expression as "economic waste," for what is the loss of one man is the gain of another man, and the gainer in this particular instance is the public. Because, these competing skimming plants hold down the price of gasoline in this State. Now then, of this two-hundred barrel run, we are going to make in this refinery, the amount of gasoline we will get will be sixty-seven barrels out of the two hundred.

Now, we have another posted price out here that we don't hear so much about, and that is the posted price at the refinery. And that, right now, is three cents a gallon;—at least, three cents a gallon would represent a fair, average figure. That posted price represents the competitive price at which the larger companies post in the fields, in the industrial field, for the independent refiner, who only has an outlet for about five per cent of the filling stations of this State. As a matter of fact, that three-cent posted price represents the cost today of producing a gallon of gasoline at the refinery. Now, that is not generally known. All the refinery figures that I have so far heard discussed at this hearing and in the Legislature, have all related to the independent skimming plant, which has a posted field price of three cents, and which figure of three cents represents the actual cost at the doorstep of the refinery. As a matter of fact, it represents a loss to the independent refinery, and the independent refiners in this State today are

twisting and turning and using every subterfuge known to the practice of the oil business to stay in the business.

I will show you where, and why. Now then, at three cents a gallon, this sixty-seven barrels of gasoline taken out of this two hundred barrels of crude would be worth eighty-four dollars and forty cents on the basis of one dollar and twenty-six cents per barrel for gasoline,—posted price at the refinery. Now, out of this two hundred barrels of crude run through this skimming plant, we would get 113 barrels of fuel oil, for which there is another posted price of twenty cents,—about twenty cents at this time. Although the sales price of fuel oil in the bigger markets is much higher. Now then, there would be a ten per cent refining loss, that would give a gross revenue of one hundred seven dollars and two cents for these independent refiners, which were buying crude and selling it at the refinery on the posted price of three cents a gallon. Now, here is what their cost would be,—just the big, general cost,—would be, and all that I am going to get at now is this sales figure,—that is the figure the public pays, and that is figured in this way: The two hundred barrels can be bought in East Texas today at ten cents per barrel, or twenty dollars. That two hundred barrels of crude—I have a gathering field charge against it of twelve and a half cents per barrel or twenty-four dollars. That is charged by these pipeline companies that run those lines around to the wells and pick it up. Those two hundred barrels of crude will have a pipeline charge against it of an average in this State, of somewhere between thirty-two and forty cents a barrel. It has been testified to in this hearing by one company at thirty-two cents, as an average for the State, and by another at about thirty-eight. So, we will take the smallest figure,—of thirty-two. That is sixty-four dollars. Now, on the gathering charge, we had twelve and a half cents per barrel, or twenty-four dollars, and so we get a total cost of crude oil, before it is refined,—that is the price now, for the gathering charge, plus the pipeline charge, to one hundred eight dollars. And remember now, that he sold his refined product at three cents a gallon, or \$107.02. So,

he didn't get anything to pay his overhead for refining, or meeting his refining costs. I merely state this this way to show you that the independent refinery—. The posted price has been set where he can not make any money to pay for his operations, just like—just exactly like the production price has been set where the producer can not make any money to pay for his operations.

Now, cracking process—.

Senator Martin: What?

Mr. Mayer: The cracking process. The cracking process of making gasoline. Now, these cracking plants are big plants. They are up in the big money world. They are very well protected by patents of all kinds and characters, as to process. Take the big cracking plants. They not only make gasoline, but they make lube oils, of different kinds and grades, and they make paraffin wax, which goes into a big market. They fractionate many different distillates, which find their way into a valuable market—chemicals for commercial uses. In other words, a big cracking and lube oil plant combined is a wonderfully big industrial plant.

Now, here's the way two hundred barrels of crude would look going through that plant. It looks different. Now, bearing in mind that the big major companies in this State today control ninety-five per cent of the filling stations of Texas. Those are the folks you do business with unless you want to hunt up an independent station, and I doubt if you know they are in your neighborhood now.

In this two hundred barrels of crude oil run through a big cracking plant, they recover about forty-five per cent in gasoline, due to the cracking process, as against the skimming plant. Now, I am going to use forty per cent here in this figure, because we want to be reasonable. As a matter of fact, the cracking process will get as high as sixty-five per cent from high grade crude oil, but I am going to only use forty per cent in this figure.

Now, the cracking process is just simply this: Instead of the oil boiler that boiled oil to about one hundred and eighty degrees, and lets the gas come off, the cracking process consists of a continuous coil that goes through a fiery furnace, the length

of that coil and its size, depending on the practice. In the entrance of this coil steam is introduced, and steam is water that is changed to gas. Where water boils at two hundred and twelve degrees, steam has a temperature of about three hundred and twenty-eight, and if it is superheated, it is about three hundred and seventy, and you can not get it any higher. I have seen coils burned down trying to get it higher than three hundred and seventy degrees.

Now, this steam introduced into the coil, and a small amount of oil is allowed to go into the coil, and it has the effect of atomizing it, like an atomizer would operate. The velocity of the steam through the coils would depend on the amount that is injected, and the size of the coil, all of which is worked out. Now, what happens? This oil is atomized, and the steam with it is carried through these coils in this furnace, that has a temperature of from twenty-six hundred to thirty-two hundred degrees fahrenheit, and by breaking down this oil into molecules and carrying it in rapid suspension in this steam, whereby it is exposed to the heat in the walls of the coils, you get a new minocular arrangement,—or atomic arrangement of those molecules, with the result that whatever comes out of that coil at the other end, you have really refracted or broken down not only the gasoline, but the naphthalines, benzolines, water white, or kerosene, and even the light fuel oils, depending on the size of the cracking plants, and the continuity of the operation. So, they break this up by cracking or refracting these distillates, and bring out more gasoline. That was a wonderful discovery, and if it had not happened to have been discovered,—which was due to the men who worked on it,—right now there would be a big shortage of oil in the United States, in view of the tremendous and progressive use of gasoline today, which has increased at the rate of twelve or thirteen per cent a year every year, with the exception of last year, when it only increased six per cent, on account of this panic.

However, this cracking process, without— They get about forty to sixty-five per cent gasoline, and the residue, which they do not recognize as fuel oil except in the balance

of trade. They go out into the fuel market, if they are needing crude—more crude. Remember that this State buys about half as much lube oil as it pays out for gasoline. So, this lube oil market is a big market. It is about a thirty million dollar market. They have lube oils with a flash point of from three hundred, four hundred, and on up to five hundred degrees. The flash point is simply this: If you boil this oil to the temperature where the smoke rising from it would flash from a light, then you have the flash point.

There is a great deal of this so-called Pennsylvania crude oil for which we probably supply a great deal of the crude from this State, that has a high flash point, of about three hundred degrees before it will volatilize it and burn it in an engine. There are engines like the Ford and the Chevrolet that do not need this oil of heavy viscosity.

All right, if I have explained what lube oils are, now, I will say that this two hundred barrels of crude oil from this ten-cent oil in East Texas, will average about ten per cent of lube oils, and will sell for in their filling stations of this big vertical set up company, of not less than thirty cents a gallon. They sell for higher than that, some of them but the average would be—a quart, I mean. Not a gallon,—thirty cents a quart.

All right. We have this set up now. The posted field price in the field of crude, of ten cents per barrel, and the posted price of gasoline at the filling stations of fourteen and a half cents a gallon. I have used that here, which, of course, includes a four-cent tax, which cuts it down to a net of ten and a half cents, and the posted price of lube oils at filling stations of thirty cents a quart. You have that set up before you for the price structure of a big, vertical oil organization.

Now, about ten per cent is the accepted figure for lube oils out of the average amount of crude—about ten per cent lube oil. Now, I am making this distinction: Lots of refineries do not make ten per cent of crude oils in comparison with the amount of crude that they run through their plant. They may make two or three per cent,—but, from this two hundred barrels of crude oil, you would produce twenty barrels of good lube oil, and we are talking about this

particular two hundred barrels of oil here. All right. Twenty barrels of lube oil, sold at thirty cents per quart, that is to you and to the consuming public, is \$50.40 per barrel, at the filling stations. This two hundred barrel run will give \$1,008.00 gross revenue.

Now, figuring forty per cent on the cracking process, on this two hundred barrels of crude, we would get eighty barrels of gasoline, at a gross sales price of \$10.04 at the filling stations, or \$336.00.

Now, remember this, that ninety-five per cent of the sales structure does not have to pay any attention to this three-cent posted price at the refinery. They are getting this oil and selling the products, and the balance of that, without going into the values of the other distillates, I don't think we need to confuse this issue with, at all, except paraffine or asphalt, but benoline, naphthaline, and other small by-products which they produce and put out. We will just throw them into the fuel oil contracts—eighty barrels of fuel at twenty cents per barrel, or sixteen dollars.

Now, then, the gross sales price or revenue received on this verticle set up of this price on the crude would be \$1,340.00. Now, the two hundred barrels of crude cost ten cents per barrel in the field, or \$20.00.

Now, in explaining—in the difficulty of explaining where this consumers' money, this \$1,340.00, goes, we want to go back to the big argument down here before the Legislature,—the posted price of crude of ten cents per barrel,—and the justification for it. Gentlemen, that looks to me like the negro's bank account, which he left in the bank for two or three years, and then went to exam—had eaten up all the principal. It ine, and was told that the interest looks to me like when twenty dollars can be invested and made to bring a gross sales price of a product of \$1,340.00, that is an awfully good investment, because the gross revenue per barrel is sixty-seven dollars, and the cost per barrel is ten cents.

Now, that kind of a skimming plant didn't take into consideration operations costs, but there is quite a reasonable spread for the operation costs in ten cents and sixty-seven dol-

lars a barrel, to take charge of that skimming plant, and any other operating costs, because they are spread over all—and the difference between the posted price in the field, and at the refinery by the common carrier pipeline companies, and other things that run the cost of their crude up to forty-four cents a barrel.

Now, I will state to you that whenever that is the rate of exchange this State pays for those products in buying gasoline and lube oils in those filling stations all over the State.—I will say to you that any conservation legislation enacted here should try to return some of that money back into the soil. These independent plants keep down the price structures. It should be the aim to accomplish that—to return some of that money back to the soil and keep it in this State. A great volume of this crude oil goes out of this State. It is not kept here.

With that in mind, I want to give you a few things about business in this State. I am a business man first, before I am an engineer, or an oil man. We want to know who is going to get this oil, and we want to know what they are paying for it, and what the public is paying for the refined products. Now, with a posted price of crude oil at ten cents per barrel—. Wait a minute. I am—. I had some other figures that I wanted to give you. Oh, yes, that's right. I want to say this, in conclusion now,—with a posted field price of crude oil at ten cents per barrel, and a selling price of gasoline at filling stations at ten and a half cents, exclusive of the four-cent tax, and the sales price of lube oils at thirty cents a quart at filling stations, we have this general picture now, in this State. The crude oil production of the State of Texas for the year 1930 was two hundred and ninety million barrels. For this year of 1931, it is estimated by the statisticians that there will be three hundred and five million barrels. These statisticians also say that there is no overproduction in the general market, although there is in sight, a large reserve in the way of new oil fields, which it is advantageous to keep in the ground, rather than to bring out in great volume and put into steel storage. And, that it is real conservation to do this,—both to

avoid economic waste, and to avoid economic losses.

Now, on the average—. I have given you the set up of these refineries with an average of forty-five per cent in gasoline, refined by the cracking process. This means that for the year 1931, there will be one hundred and thirty-seven million, two hundred and fifty thousand barrels of gasoline made and released into the markets of the world from the crude oil produced in this State.

Now, there are approximately one million, eight hundred and fifty thousand automobiles in Texas, using an average of twelve barrels of gasoline per car, per year, which would make the consumption of gasoline in Texas for the year 1931, of fifteen million barrels. In other words out of the hundred and thirty-seven million, two hundred and fifty thousand barrels of gasoline which will be manufactured from the crude produced this year from Texas, the State of Texas consumes only fifteen million barrels.

I am dealing with the economic losses now, and not economic waste, so far as this State is concerned. At a sale price of ten cents a gallon, exclusive of the tax, that would be a sales price of four fifty per barrel at the filling stations. That is what the people of Texas are paying for it at today's rate. Now, the cost to Texas consumers of gasoline in this year of 1931, will be sixty-three million dollars. In other words, I will give you the figures, and how I arrive at them. For each twenty-five gallons of gasoline consumed, there is about one gallon of lube oil consumed, at thirty cents a quart.

Now, then, this means that there are six hundred thousand barrels of lube oil consumed, at fifty-forty per barrel, or a cost to consumers of lube oil, of thirty million, two hundred and forty thousand dollars, or, about half what the gasoline is. The total cost to the consumers in this State, of gasoline and lube oil, will be ninety-three million two hundred and forty thousand dollars. Now, the price paid for this particular oil, out here in this field, at ten cents per barrel,—at this price, would be thirty million, five hundred thousand dollars. In other words, the actual cash lost—and you can call it economic waste, or economic loss, or

dignify it with any technical name or term that you want to, but to get down to business, the actual cash lost to the State of Texas for 1931 will be sixty-two million, four hundred and seventy thousand dollars, that went out of circulation in this State. That sounds like one of those national loans to me.

Now, had one dollar a barrel,—had this price been maintained, and I say there was never any justification for cutting this price of oil from one dollar a barrel—at one dollar a barrel the posted sealed price for crude oil in Texas would have brought three hundred and five million into this State, and subtracting the cost to consumers of gasoline and lube oil of \$93,240,000, the State would have made a net gain in new money to the amount of \$211,760,000. I will tell you what that amount of money is, that two hundred and eleven million dollars cash that we would have gotten would have increased the prosperity of the State 25 per cent over what it was this year, 25 per cent, and our failure to get it in the face of these panicky conditions we have had in 1930 and 1931 has decreased our general prosperity in this State 25 per cent, or just a little more in that ratio. That is how valuable that new money is, because there are a few certain facts known in economics and here they are: One is there is only about one hundred and sixteen dollars in cash in circulation per capita. The other is that the gross volume in business required in this State per capita is about twenty-five hundred dollars per person per year. In other words, for a real quick exemplification, a man with a family of five and—No, sir, it is about twelve hundred and fifty dollars per capita—a family of five, the earnings at 10% would be about twelve hundred dollars per year. In other words, the gross business of this State has got to be about fifteen billion dollars a year for this State to prosper, and the amount of cash in circulation is on a ratio of fifteen to one. The gross business of the United States was three hundred and sixty-five billion dollars. The actual amount of cash in circulation and in the treasury of the United States and frozen in all trust funds and everything, was only about twenty-eight million dollars, so it shows that the turn-over in business was only

about fifteen times the amount of cash on hand. Now, then, this two hundred and eleven million dollars that we failed to get this year because of the cut in price of oil represents twenty-five per cent of the amount of cash actually in circulation in this State to support the necessary amount of gross business in this State to maintain its prosperity, which is about fifteen billion dollars gross a year.

Now, I want to thank you, Mr. Chairman, and Gentlemen for the opportunity and will be pleased to try to answer any questions you may wish to ask.

The Chairman: Senator Berkeley is recognized by the Chair.

Questions by Senator Berkeley.

Q. Mr. Mayer, are the ideas that you have expressed to this committee concerning a remedy for the oil situation as you see it today in Texas, are those ideas incorporated in what is known as the Gainer bill?

A. They are incorporated in the substitute bill that has been submitted, not in the first draft. The first draft I put out was merely a suggestion of a bill and then Mr. Gainer asked me to take that bill and get down and work it over and try to make it constitutional and try to make it cover the different points that I have in mind that should be covered in the various ramifications of the business.

Q. In the preparation of the substitute bill—is the preparation of it entirely your handiwork, or was it in collaboration with others?

A. I want to state this, that I drew that first bill that I mailed to all you folks, I sat down and dictated that bill and revised it once and sent it out. No attorney helped me on that bill. The reason for that was that I just wanted to get over the idea and I didn't want to have it said afterwards that any lawyer of any major oil company, or otherwise, had drawn that bill. Now, when I brought that bill down here—I have been here about two weeks, and I have listened to some testimony and talked at great length in the hotel lobby with different oil men of this State, and some of them have stated to me, for instance, that is unconstitutional, that particular feature, of this will not work, and the re-

sult has been that I have been studying about how to accomplish that purpose in that bill, but I will say this, that I drew that bill, actually wrote every word of it.

Q. You represent what is generally known as the independent oil group of Texas?

A. Yes, sir.

Q. You are identified with that group?

A. Yes, sir.

Q. Now, in the preparation of this bill, did you advise with any of the independents of the State?

A. Well, I have been attending the independent meetings and I have argued or discussed the various points with them. Now, I will say this for the independents, that my bill does not represent, does not necessarily represent the viewpoint of all the independents. A great many of the independents—some of them—their view point is restricted to the particular operation in which they are involved in the oil business, and it is possible they do not know so much about the other departments of the business. Some of them—I want to say this—operating in different parts of the State, they have divergent ideas about how to accomplish anything in the way of legislation.

Q. Have you submitted the bill to any considerable number of the independents?

A. I submitted the first draft to everybody, all independents, and all you legislators, by mail.

Q. I am talking about the independent operators?

A. Yes, sir. But the revised bill has not yet been submitted to them.

Q. Then the substitute bill that is now before us has not been endorsed by the independent operators of Texas?

A. They have not had that opportunity.

Q. They have not had that opportunity?

A. No.

Q. Are you familiar with the provisions of what is known as the Woodward bill?

A. I have read that bill and I think that that bill endeavors to empower a Commission to— — —

Q. (Interrupting) I am not asking that.

A. I believe I am.

Q. I am just asking if you are familiar with it?

A. I believe I am.

Q. If you state you are familiar with the bill, if the Woodward bill were enacted into a law, what would be the effect in your judgment on the independent oil industry of Texas?

A. Well, if that bill were enacted into a law it would depend entirely on the Commission. I think the independent could be put out of commission if they proceed with the present character of proration rulings and the way it is being handled now. Of course, if there happened to be super men in the oil business right at the time the situation of the land on earth and the independents in the State—of course, their construction would depend on how it would turn out entirely.

Q. Let us assume the Commission would interpret the spirit of that act as written, what would be the effect on the independents?

A. I would have to scrutinize that bill. I think that bill fails to circumscribe the powers of that Commission, and therefore it is unwise legislation, and puts great power into the hands of the Commission to obtain something by indirection. I do not think that is practical or will work out satisfactorily.

Q. This further question, Mr. Mayer: Early in your argument, as I recall, you stated that if proration was had against the larger wells of the State, if they were cut down say 50% of their potential, that that would not seriously hurt them, but if proration was had against the smaller wells of, we will say a hundred barrels and less, that that would be disastrous to them. Is that correct?

A. Yes, sir, that is correct.

Q. Now, that I understand you, I understand you follow up that statement with the statement that you thought an allowable ought to be granted to a field in the aggregate. Is that right?

A. That is right.

Q. In determining the allowable and in prorating among the various wells as what that allowable would be, wouldn't the same rule apply?

A. No, not necessarily. The rule

that applies now depends on the denomination of the oil for that field depending on these unsettled momentary market conditions. The allowable I have in mind is that the committee would ascertain how much oil could be produced from that field without waste—you remember I am a conservationist and I do not approve of overproduction, that will create greater waste—without waste that will maintain the more efficient operation from the standpoint of confining the gas energy in that field and eliminating the water drive, and under good engineering practice in that field, will allow or will set the allowable for that field and not the denomination of the purchasing companies which are changed from day to day and month to month to suit the conditions of their business.

Q. But in determining the output of each of the wells in that field how would you go about it? It would have to be an equitable plan?

A. Yes, sir.

Q. How would you determine that? Wouldn't it be under that same rule you talked about a while ago?

A. Well, do you mean the rule provided in the bill of mine? I will answer this way: I would say that first that field would become subject to whatever minimum output of wells all over the state was and in my opinion it ought not to be less than fifty barrels. From there on it would go into a second bracket which should be from fifty barrels to three hundred barrels, which has been determined in actual practice to work fairly well. The allowable in bracket would apply to all wells in any respective field. Above three hundred barrels I think it is right and proper that the Commission ought to be empowered to regulate and prorate these big wells under any manner of equitable proration and control that they see fit to apply in that respective field and with relation to denominations for excess oil coming in over the entire State. I think that is very practical and workable.

Q. This last question, Mr. Mayer,

A. (Interrupting) I have to add this to it—without creating a condition of waste in that field, and in the interest of conservation.

Q. Yes, sir. It is your judgment the Commission ought to have the authority to set the maximum that



any well, regardless of its potential should produce in any given field?

A. I think so, with this reservation, however. I do not believe the Commission ought to say to a producer who just brings in a well, a two or three thousand well, "Cut that well down at once." I don't think that should be done by them. I think this producer should have the right of storing oil, but when he releases it, it should be under this regulation—if he brings in a two, three, or five thousand barrel well and it would hurt his property to shut it right in on account of the well sanding, or paraffining, or the setting of casing—there are many things in the practical operation of a well that might require it to flow open for a number of days. I think he should have the right to get the well under control and properly cased and properly cleaned, and this excess storage oil would be released under these commitments under the same regulations that would be made regulating his well.

Q. Thank you, I believe that is all.

Questions by Senator Martin.

Q. Taking up right where he left off. Practically every oil producing company in the State has its own engineers, hasn't it?

A. Yes, sir, the large ones do.

Q. And they are all interested in conserving what they have discovered in any particular well, they are as interested as any official of the State of Texas could be, are they not?

A. I rather think they would be, especially if their company was interested.

Q. All right. Now, Mr. Mayer, have you looked up in your dictionary to see what the word "conserve" means?

A. Well, I think I have, yes, sir.

Q. Will you give the definition of it?

A. Conserve means to hold or to save, without waste.

Q. Guard or keep?

A. Yes, sir.

Q. Can you tell me how many oil fields the State of Texas owns?

A. I can't give you the exact number, no sir.

Q. Does the State of Texas own any oil fields?

A. Do you mean within the State of Texas?

Q. Yes, sir.

A. I couldn't tell you, unless the State has some land in the oil field. I don't know whether it has, or not.

Q. When the State of Texas sold its land, it reserved all rights to the rivers and the flowing waters of this State, didn't it? Therefore the State at this time can take conservation measures pertaining to its water-powers, can't it?

A. I couldn't state. You are probably better informed than I am.

Q. When they sold land, it was sold from the center of the earth to the highest heavens? You own property yourself?

A. Yes, sir.

Q. That is the way you regard it, isn't it?

A. Yes, sir, but I take this attitude — — —

Q. (Interrupting) Wait a minute. Now, the State of Texas then could only be interested in the crude oil of this State to the amount of taxes it gets out of it?

A. It has a public interest in it.

Q. Only to the amount of taxes, isn't it?

A. I can't say as to how great the interest is of the State. I think it has a greater interest.

Q. When you speak of conserving the oil to this commonwealth and the great people of this State—the State of Texas only has an interest to the amount of taxes it gets out of it, and that is all it could have, isn't it?

A. It really has a bigger interest than that, as I have shown.

Q. Whether the oil is consumed in one year, or whether it is consumed in forty years, the State could only get its taxes out of it, and that is all.

A. I will say that they are taking a big economic loss in this State.

Q. Please answer the question. All the State can get would be the taxes whether all the oil is consumed in one year or in forty years. Isn't that right?

A. I couldn't answer that question. I am not a lawyer and am not

quite familiar with some of the things you are asking about.

Q. In the retailing of gasoline in this State, the State of Texas gets four cents per gallon tax, doesn't it?

A. I think that is correct.

Q. It gets that whether or not the salesman or the party distributing it gets fifteen cents or forty cents per gallon, doesn't it?

A. Yes, sir.

Q. It only gets four cents a gallon whether the party selling it makes twenty per cent profit or two hundred per cent profit?

A. That is correct.

Q. Now why shouldn't the State along the same reasonings set a tax on the crude so much per barrel at the well, graduate them if it sees fit, and get its taxes for the crude oil in that manner?

A. Well, I don't know enough about legislative procedure or laws of this State to pass on severance taxes, I would say it could be done.

Q. All right, if it can be done and the State could get its taxes from the crude at the well, then all of this machinery which you would want to set up here, and which would want to set in motion would be to control the economic future of the industry?

A. I think it is important to keep the State from taking a economical loss.

Q. The State could not take an economical loss if it was getting its tax at the well.

A. It would if they could not pay the tax, that is the operators couldn't.

Q. Then do you want us to set up a Commission and get it to assist in those things in order that you may remain in business?

A. I think it is a good idea that any legislation that has that thought in mind — — —

Q. Would you want the State of Texas to set up what is known and what would be styled as a Conservation Commission with all of the expenses necessarily incident to the operation of that Commission in order that you might stay in business?

A. I will say that you already set

up the machinery that has put us out of business.

Q. Will you please answer the question, do you want the State of Texas to set up a Conservation Commission with all of the necessary expense incident to the operation of that Commission in order that you may stay in business, such a Commission carrying with it all of the employees, clerks and stenographers that would be necessarily incident to the functioning to that Commission, in order that you may stay in business?

A. If the operators are taxed or taxed in the State we will be willing for it.

Q. Will you please answer the question, Mr. Mayer?

A. I am answering your question.

Q. Will you please answer it yes or no?

A. I don't think it can be answered yes or no.

Q. It certainly can.

A. I will say you have already set up the machinery that has put us out of business, we are looking for a remedy that will let us go back in business.

Q. Do you want to pay the taxes to a great retinue of clerks and Commissioners and high salaried technical people to run around over the State and try to control the individual in the operation of whatever he may have?

A. That is one way to do it.

Q. Why not let the operator pay at the well and leave it?

A. Because under the system predominate in this State we would lose the well.

Q. Don't you have engineers to tell you when your well is brought in properly and properly producing?

A. No, not every operator.

Q. Do you want the State to furnish him one?

A. Yes, sir, in the interest of conservation, I would be glad for him to point it out to us.

Q. In the interest of the State you would want the State to furnish them something which they ought to be bound to furnish themselves?

A. Yes, sir.

Q. Couldn't the State go a little further and pass a law providing that every well that is brought in should be brought in under the supervision and direction of a competent engineer, and the State not be out one dollar in order to make the producer take care of his own business?

A. I think so.

Q. That would not necessitate the creation of a commission, would it?

A. Well, I think it would because the commission is nothing but the executive head of the oil business.

Q. If the state can pass a law to make every man who brings in a well bring it in under proper supervision of an engineer, and if they so desired they could it must be on proper certificate and permit of supervision, if the State can require the purchaser to bring in his well under the direction of a competent engineer, if the State could say you must pay so much per barrel at the well then why have this great retinue of Commissioners and people to enforce the law?

A. I will be frank, I think no supervision could be had without an organization to do it. It stands to reason that one engineer could not be at fifty places at once.

Q. That is exactly why everyone should have his own engineer, the opinion of engineers vary as much as there are engineers?

A. Yes, sir.

Q. Then you would be willing to lay down your rights and look to the Railroad Commission or some other Commission to furnish an engineer to tell you when the well is brought in right?

A. Well, you must remember this, that the engineer for a company is out to try to get everything he can for his company, and the engineer for the State is out for the conservation, so I think the two engineers might not agree as to what should be done.

Q. If the State of Texas can force a company to have an engineer to take care of its production as it comes in, and if the State of Texas can say to the producer, you must pay twenty-five cents a barrel or fifty cents a barrel tax for every barrel of that oil that comes out of the ground at the place where the well is what is there then except for the Commission to control the economic condi-

tion, there wouldn't be anything for such a Commission to do?

A. Oh, yes, there would too, but if you impose a tax of twenty-five cents a barrel in East Texas when the price is only ten cents a barrel it would result in the State of Texas owning the fields.

Q. You are now paying tax of four cents a gallon on the gasoline?

A. Yes, sir, that is the filling station price.

Q. Well, what would be the difference if you pay it at the well?

A. If you paid it at the well you would then be putting it on the producer.

Q. The reason you are sponsoring the establishment of a Commission today, the reason you are trying to put this in the hands of somebody to regulate it, is for the purpose of taking care of the economic condition of the oil industry in this State? Is in order that your company and others may survive, that is right?

A. Yes, sir, I am anxious that this business be intelligently regulated to where we can keep from going broke.

Q. How long has the oil business been known in the State of Texas?

A. About twenty-five years.

Q. The Corsicana field was the first field brought in in the State of Texas?

A. Yes, sir, about twenty-five years ago.

Q. Wasn't it forty?

A. I could not tell you.

Q. It was brought in before our geologists were running around over the country telling us where the oil was and where it was not?

A. Yes, sir.

Q. And some of these wells in the Corsicana field are producing oil today and have been producing oil for forty years?

A. I think that is correct.

Q. Those wells have continued to produce, and the oil business has been going on and Rockefeller and others have made their millions out of it, even our own Andrew Mellon?

A. Yes, sir.

Q. You have never heard of those fellows and asking the Legislature to take care of their business until it gets into such a shape it cannot take care of it themselves and then they come here and ask the Legislature to help them?

A. I am asking the Legislature to pass legislation, but not the same

kind of legislation that Andrew Mellon and Rockefeller would like to have.

Q. A while ago you said it was not in keeping with ideas of the independents, it is not in keeping with the ideas of the majors, is it a common ground, you are just splitting the difference?

A. Yes, sir, it is a common ground. Here is what I am trying to do: to get a law that will put through the oil business like a sword of justice.

Q. You openly admitted, and I think you are to be commended for it, that the Legislature should go far enough to take care of economic conditions.

A. To protect the State from unreasonable economic losses.

Q. The State?

A. Yes, the citizens, I am one of the citizens and a land owner. I rate myself not only as a producer, but as a citizen and a land owner. There is not a man here today who may not have oil under his property tomorrow that he would find himself in the same condition.

Q. Is it the people of the State that are concerned, or the oil people?

A. I think the people of the State are just as greatly concerned as the oil people, because the economic loss at the rate of exchange amounted to two hundred and eleven million dollars a year.

Q. That is an economic condition here?

A. Well, here it may be but it has to do with a great business loss in the State.

Q. You are not coming here recommending that the Legislature control the furniture business?

A. No, sir.

Q. Nor the lumber business?

A. No.

Q. Nor anything except the oil business?

A. That is right, and I do not recommend anything concerned with replacement crop.

Senator Purl: Mr. Chairman, I would like to ask the gentleman a few questions.

The Chairman: All right, proceed, Senator Purl.

Questions by Senator Pury.

Q. Most of the oil problems you have been talking about concern all

oil companies, either independent or majors?

A. I tried to include land owners also.

Q. I am talking about the producers of oil?

A. Yes, sir, individuals or independents, small companies.

Q. There are a great many individuals interested in the production of oil as produced?

A. There used to be a great many, but most of them have been crowded out of business.

Q. They have been crowded out and it is not a corporation problem?

A. Yes, sir, although the land owners are still interested in their royalties.

Q. A corporation is an artificial person?

A. Yes, sir.

Q. There are six million human beings with souls out of employment in the United States today?

A. Yes, sir.

Q. And you want this Legislature to be called in special session to ignore six million human beings and help an artificial person?

A. No, sir, I do not.

Q. Are you interested in any legislation that can benefit anybody but the oil man?

A. Yes, sir, the consumers.

Q. Have you any suggestions whereby you might help other citizens of this State that are not interested in the oil business, except the consumers?

A. You mean only out of this field?

Q. Yes, everybody is interested in the oil in that they buy gasoline and kerosene or asphalt. Have you any suggestion whereby we might help the rest of the individuals?

The Chairman: Senator Purl, I don't know that that question has any relevancy to this inquiry. I think that is a little out of order.

Q. All right, I will withdraw it. What did you say the name of your company was?

A. Johnson Ranch Oil Company, and the Rock Creek Company.

A. Are you producing oil now?

A. Yes, sir, gas and oil.

Q. Who are you selling it to?

A. We have been shut in since we brought in a hundred million foot gas well, and the other company I have got a connection with the Continental Oil Company for oil, and

the Pacific American Gasoline Company for gas, a small private contract which was a life saver two or three years ago.

Q. What are you getting for the oil now?

A. Well, you must remember I have been here two weeks, but it was ten cents when I left.

Q. I understood you to say you had a contract?

A. That was merely a connection, the contract provided they would take the gas from our property before all others, and that has kept me in business.

Q. You had a prior contract with them?

A. Yes, sir.

Q. Would you mind telling how much it is?

A. For the volume of gas taken?

Q. Yes, your unit price?

A. Well, it is about six or seven million feet a day and I think the the return on that is about two cents a thousand for the gas.

Q. Are they transporting that gas out of the State?

A. They are using it to make casinghead gasoline.

Senator Martin: May I ask a question, Mr. Chairman.

The Chairman: Senator Martin.

Questions by Senator Martin.

Q. You stated a moment ago the royalty owners of this State should be protected. Then you are a royalty owner yourself, are you not?

A. Yes, sir.

Q. A man who has a tract of land, under which there is presumably oil—some geologist looks down there and sees oil, and tells him about it—now, he has a perfect right to make a contract with reference to how much he shall get for that royalty?

A. I have never seen such a contract.

Q. Didn't Mr. Waggoner tie them in that way in his field?

A. He made a rare contract.

Q. Well, there is nothing to hinder any other man from making such a rare contract, is there?

A. Save and except they won't make them.

Q. You find a great many men that will not make a rare contract, even in a cow trade don't you?

A. Yes, sir; you have to take

into consideration general practice in the business.

Q. You don't hear of any legislation to protect a man in a cow trade, do you?

A. I think they have tried awfully hard to get it from time to time.

Q. Sir?

A. I think they have tried awfully hard to get it from time to time, and did get it.

The Chairman: I think that rather partakes of the nature of argument with the witness.

Senator Martin: Well, I haven't heard anybody making that objection.

Senator Oneal: I move that the committee recess until two o'clock.

The Chairman: The motion has been made that the committee recess until two o'clock. Any second to the motion?

Senator Purl: Yes, sir; I second it.

(Thereupon motion to recess until 2 p. m., was put before the committee, and carried; and thereupon the committee recessed at 12:05 p. m., until 2 p. m., same date.)

Afternoon Session—2 P. M.

The Chairman: Any member of committee who wishes to ask Mr. Mayer any more questions? Any one at all? Any member of the Senate who wishes to ask Mr. Mayer any questions?

Senator Holbrook: I wish to ask one or two questions.

Questions by Senator Holbrook.

Q. What in your judgment is the best solution to this problem, the substitute bill, drawn by you?

A. Yes, sir; I would like to request consideration of the substitute I have drawn, and which Mr. Gainer, as I understand, has submitted, and in which I have incorporated all of the points I have discussed this morning.

Q. You think that bill covers your ideas as you have discussed them this morning?

A. I think it does as far as it can be done, and still be constitutionally operative.

Q. Have you had lawyers pass on that?

A. I drew that bill and then asked a lawyer to listen to me while I read it to him aloud. I read it slowly and carefully to him, and he said I had been able to accomplish in that bill some of the points they had never been able to before.

The Chairman: Is that all? I wish for myself and the committee to express my appreciation to Mr. Mayer for the able manner in which he has presented his bill.

Mr. Mayer: I want to thank you, ladies and gentlemen, for giving me this hearing.

(Witness excused.)

Harry Pennington, a witness, having been sworn, testified as follows:

The Chairman: Members of the Senate and committee, this is Mr. Harry Pennington, of San Antonio. Mr. Pennington's presence has been requested by Senator Hornsby.

Mr. Pennington: Mr. President, and Ladies and Gentlemen of the Senate: I have some statistics with me, but I think that you have gotten about all of the statistics anyone could swallow inside of such a short period as this hearing. For your information I will say that I represent the San Antonio Independent Petroleum Association, composed of—

Senator Martin: Whom do you represent, did you say?

Mr. Pennington: The San Antonio Independent Petroleum Association, composed of producers, refiners, and pipe liners, wholesalers, retailers and land owners, that cover Southwest Texas; and the subject of conservation is most important to the State, to our people, and to the oil industry—I would say to our State first.

The oil industry has undergone many, many, profound changes in the last ten years. The most profound studies have been made of all the processes, from the time we think of drilling for oil until we put it in the automobile. The processes all along the line have been improved, and we might say, pure research and invention have been brought to improve every process; and in all history there has been nothing that has affected the life of a nation, or people, or industry, so much as technical improvement in this line. These improvements begin with geology. We have geo-physical instruments now, with which we

locate submerged structure before we drill. We use palentology, which enables us to define horizons geologically that we were not able to define before. We use core drilling. We drill to greater depths than ever before. There is the discovery of the gas-oil ratio, which at once added untold millions to our potential supply in Texas and everywhere else. The discovery of the gas-oil ratio method of production was made in 1912, and I made the discovery, by the way, and announced it in 1923, and for five years wrote thesis after thesis on it in our journals in order to further the matter of conservation. So in making an address to the Senate, I feel constrained to say that no one has done more for conservation. No one has done more for conservation.

With that as a premise I will go into some of the business details of the oil industry, how affected by law, how affected by the present law—how it is affected by the setup we have under law at the present time. Statistically, the oil industry is in a very excellent position. We have, compared with 1929, which was our last good year, we have less production by 450,000 barrels per day. We have a greater consumption than we had in 1929—not a great deal, but slightly greater. Our imports are slightly less. The stocks of crude oil are less in the tanks, and the stocks of gasoline very much less in the tanks than two years ago. The day's supply of crude oil ahead is not excessive, and there is no industry in as strong a position as oil. But the oil industry is in distress by reason of low prices; and I believe I can outline why we have gotten to the present situation, not through any effort of ourselves, but through what I can show to be a form of valorization.

The oil industry in Texas, and in the United States, has been prorated now for five years, voluntarily, I would say, although we have had orders issued by the Railroad Commission fixing the amount of oil you can produce from your property. Personally, I have never believed the Commission had the authority to say that I could not produce oil to any amount I wished, but it has authority to say I cannot injure my neighbor, and that comes under the police power; but when we attempt, as Judge Hutchinson has just ruled,

when the attempt is made to prevent a commodity from being produced in its normal way, then we build up supplies, which depresses prices. In 1929 production of the United States was nearly three million barrels greater than any time in history, and the price was advanced in the face of that supply. Since then prices and production have declined, and our usual economic processes have been reversed by nothing save the proposition of building up resources below ground. They are in sight; they are visible; they can be produced; we have more than we can use, supposedly; and those conditions have depressed the price of oil. For instance, in the Yates field, the production potential has been estimated at three and a half million barrels. But in the hearing of Docket 118, combined with 112, before the Railroad Commission in March, Mr. Richmond, who testified here, stated that if more than 89,000 barrels of oil is run from the Yates field, they will go to water. Then, there is no potential that exists of three and a half million barrels. Large potentials existing in any industry will prevent an adequate price being secured. You heard Senator Gore make a wonderful speech. He mentioned rubber; he mentioned coffee; he mentioned sugar. Sugar was valorized at twice its cost of production, and it bankrupt the sugar business of Cuba. Brazil built up enormous reserves in coffee, and they had a revolution over it. Japan valorized her silk, and it bankrupt the industry; and England did the same way with rubber. Copper went the same; tin went the same way; and the power of the mightiest nation on earth could not valorize wheat and cotton, and when valorization proceeds with the building up of high potentials, tending to neutralize the law of supply, until those potentials are released, we will not receive an adequate price for oil. The difference between valorization and proration is a matter of who carries the inventory. Under valorization, someone buys the production and stores it. Under proration, the producer will carry the oil under ground, and he will carry the inventory and keep it. If you will require him to carry the oil underground, you are requiring him to carry the inventory.

Now, the oil industry has had

several methods of arriving at the price between the buyer and seller. The first method in use, according to history, was at Bradford, Pennsylvania, where there were oil exchanges, at which prices were bid and asked and accepted for oil, even in running lots. Then, the credit balance system came in. Then contracts were made for oil production at a definite price. Those systems were not brought to Texas, except as to the contract system. In Texas, we have had what is known as the posted price system. You find on the door of every purchaser owning a pipe line that he will buy oil and pay you so much for it, and you can take it or leave it; you have no recourse; you have no other place to sell your oil in many cases; and that is one of the difficulties of the present setup.

Along the line of supply and demand, demand is largely flexible, depending upon price. Along the line of technical improvement, when the cracking process came in, it put all the oil we had been burning in boilers back in competition with crude oil. By making gasoline from fuel oil, all that large supply was brought back into the picture in competition with crude, and there is approximately one million barrels of fuel oil being used today, and all that is competitive with crude. If the price of crude goes down there are many power plants over the country that can switch from gas to oil, or from coal to oil, when the price justifies. There is a large flexibility in the market for refined products, as well as fuel oil. When gasoline is cheap, farmers prefer to use gasoline, rather than kerosene. In the matter of prices for oil leading up to this situation we have with capital today, in former years the price of oil was governed largely by supply and demand. When we had plenty of oil, prices went down, and when the supply was curtailed the price of oil advanced somewhat, and there were regular cycles requiring anywhere from one year to three years to complete in the orderly process of forming but in 1926 the curves of these cycles were not complete; the old method of supply and demand was out of joint; we could not see just what was happening because production went up and prices still went up, and it then became

evident that there was a plan on foot to legislate upon the production of oil, and in support of that I wish to read a statement made three years ago, which is printed in "Increasing the Recovery of Petroleum" by Wentworth H. Osgood, Lieutenant Commander, United States Navy. As stated by W. B. Farish, this plan is at least three years old, because this book was written three years ago. We have been looking for this legislation for many years and we have seen much written about it, but you have not heard half of the program yet. If this bill passes, you will be called on for unitization bill, a bill that will make every owner of land in an oil field pool his property and let someone else run it for him. Here is Bulletin No. 4 with all law about it and what is necessary, and if you wish it in evidence I will be glad to submit it.

Senator Martin: Mr. President, would the gentleman yield to a question there?

The Witness: Yes, sir.

Senator Martin: That last book you referred to—what page and section is it that refers to unitization?

The Witness: It is full of it.

Senator Martin: No particular section of it?

The Witness: All the law and the methods and what would be required to enact a law on it, and all like that.

Senator Martin: All right.

The Witness: It is the American Petroleum Institute, which I have explained was organized in 1919. It is fully organized, manned, and officered, and they have invitations sent out to join it. We did not join—we figured we would be in bad company—this American Petroleum Institute today is a mouthpiece of the Standard Oil Company; it is the publicity bureau, you need not be mistaken about it. As to the difficulties of the small operator under proration, he has enough difficulties any way, but under proration, gentlemen, it takes a lot of money to drill an oil field—if you haven't got it you have to surrender somehow or other, but if you hold on and get a little bit you must be satisfied. If you can not run it in an orderly way and without injuring your neighbor, if you can not run it under those conditions, your property is rendered valueless. I

have endeavored all during this session of the Legislature—the first session,—to aid in conservation, but we have not yet been able to separate true conservation from price fixing—from fixing supply to demand or fixing demand to supply—we might as well try one as the other; and our position is that oil can best be conserved through technical operation under the supervision of the State, and by that we mean that any other profession, like surgery for instance, has certain safeguards thrown around it; it don't send a man into the operating room to see that an operation is done properly, but simply throw rules about it. The oil industry, we think, can best be handled in the same way. We have always been constructively in favor of conservation. We have those laws on our books now and we have endeavored to support them and will continue to support them. The demand clause is in Senator Woodward's bill. The demand clause repeals the anti-trust law. The demand clause fixing supply to demand is a price fixing measure. We would like to state another thing in favor of independents. It has been said that the independent refiners are paying less for oil now. Well, gentlemen, I will refer you to the time when independents have always paid more for oil. In my opinion, refineries I have paid more for years, from forty to fifty cents a barrel more than paid by the majors, and those refineries were running from six to seven thousand barrels a day. The independent is penalized when he buys oils in normal times. He may be using some oil now at less than average prices, but in the long run the independent has averaged a greater price per barrel, because, until this time, the independents have paid a premium on the oil they bought. On the question of conservation, if the freight rate is so high you could not ship your cotton from market your cotton land would not be worth very much, and on the same basis when pipe line rates are so high as to prevent us from getting oil to market at tide-water—and the market is a tide-water—our oil is reduced in value. The facts are too profound not to consider when we come to the matter of conservation. The inequity of the present setup in the pipeline



situation is such that the State, the land owner, and the producers are all deprived of just values by excessively high transportation rates. Texas produces thirty per cent of the oil of the United States. The United States prorated down 107 million barrels, only to find that imports were prorated up to 106 million barrels. We voluntarily shut in 107 million barrels leaving the United States and then allowed 106 million barrels brought in from Venezuela and Mexico.

Another thing about the control over quantities and prices,—when the quantity of any commodity is limited it means a higher price. The countries that are under control now limiting production to demands are: Venezuela, Persia, Peru, Columbia, Batavia, Java, as against Russia, Roumania and Texas. We are classed along with Russia because we haven't controlled our oil yet. The answer to control in this country is this, that in Bogota, Columbia, today, under control limiting the supply to the demand, gasoline is selling for nearly sixty cents a gallon. In Venezuela, that exports a good deal of oil to the United States, and gasoline, the price of gasoline at retail is thirty-two cents a gallon, and where the Anglo-Persian Oil Company furnishes gasoline for instance at Melbourne, or any of those places, it runs from fifty to sixty cents, plus the tax, and that is the result of control. Of course, our citizens can ratify anything in the Constitution that they would prefer, but at the time when you go home and a bill is voted here, gasoline goes to twenty-two to twenty-five cents per gallon, please remember we did not want a special session of this Legislature; the independents did not want it.

About the University land and conservation. You have heard so much of that, that I believe you are familiar with it, but—

(At this point the speaker was interrupted by the Chairman of the committee to take up another matter, after which the speaker continued.)

The oil produced from Big Lake is out of the Pennsylvania formation. That oil is similar to Pennsylvania oil, and is produced in the State of Texas. It is similar to the oil produced in the State of Pennsylvania.

The same formation runs down through Texas and the Big Lake oil is of even better quality than Pennsylvania oil. It goes to tidewater and is shipped around by seaboard and is true Pennsylvania oil, although not produced there. In the matter of conservation we must remember one thing, that where gas produces oil, the gas emerges as casinghead gas and it has no pressure, the pressure has been dissipated in lifting the oil, and in considering conservation we must remember it cost money to compress gas and when we do compress it we must have a price for the gas that will pay the cost of compression with a reasonable profit. The values of oil in East Texas are distressingly low and there is no reason for it because, as I have stated before, oil is in a better statistical position than any other basic industry in the world. The excessive reduction in prices in East Texas can be compared with a statement made by Mr. Walter Teagle at a time when Powell was going good. Mr. Teagle said, and I have his own statement in the press, that "Flush fields will have to stand the burden of a low price." There is no reason whatever for putting such a burden on a flush field; no reason whatever. That burden is on East Texas now, and the Powell statement was made seven years ago. From a competitive standpoint, the people of Texas have for many years purchased their lubricating oils and gasoline on a fair measure of competition,—they have had the benefit of competition. In my town gasoline sells today at twelve cents. Our local refiners, independent refiners, are making a fair profit. They have no desire to add on any excessive profit, but even under today's conditions, they are making a fair profit, and the value of independent competition to the general public cannot be overestimated. In legislating on such question as this, and a bill of the type that Senator Woodward introduced is very likely,—it is very likely,—that a supply of oil will be denied the independent refiners. That has already been endeavored, and at a hearing of the Railroad Commission, docket No. 112, combined with No. 118, when East Texas was first being considered under proration, fifty thousand barrels a day was al-

lotted to East Texas,—East Texas could produce fifty thousand barrels a day. Now, I listen to the testimony, and it has been disputed, but the record is in the Railroad Commission's office, those who were to be allowed to buy East Texas oil, the Humble Oil and Refining Company, 25,000 barrels a day; and the Magnolia, 24,000 barrels, and all independent companies, 10,000 barrels a day. That is our objection to the application of the law, in that its prorated the refiners, kept him from buying a supply, and the independents nominated one hundred and seventy-five thousand barrels and were allowed to buy just one thousand barrels a day. I will say that on conservation we would not object to practically any law you might pass. All we are interested in is a fair, equal, just application to all alike, and when East Texas is prorated and ninety-eight per cent of the oil given to the major companies and the independents shut off, we do not see that is by any means fair, and that is our principal reason for being here.

Senator Pollard: What reason was given by the Railroad Commission for denying the independent refiners their daily capacity?

A. They said it was in excess of the demand. They told the Crown Central that they could not refine that much a day. They nominated fifteen thousand barrels a day and they said they couldn't refine but five thousand and wouldn't give them that. The Humble Oil and Refining Company is buying two hundred and forty thousand barrels a day and they can't refine all that. The discrimination was against the independents in that case, a rank discrimination in that case. I think possibly you listened to the testimony.

Senator Pollard: Yes, sir. Could there be any other reason for denying the independent refiners in East Texas their daily capacity other than to keep them from entering into the field as refiners?

A. That is the only reason, the only reason whatever, and that has been done in many other fields. It was done at Dodd's Creek.

Now, on the question of this Senate Bill No. 180. We have in Texas as subsidiaries of the Standard Oil Company, the Atlantic Oil Producing

Company, the Atlantic Pipe Line Company,—it has been disputed that the Atlantic is a Standard subsidiary, but I have in my hands a booklet, pocket manual, gotten out by J. S. Bach, member of the New York Stock Exchange, and they list the Atlantic Refining Company, of which the Atlantic Oil Producing Company and the Atlantic Pipe Line Company as subsidiaries, they are listed as Standard Oil Company subsidiaries. I have no other information than that. I think that is authentic, J. S. Bach & Company are members of the New York Stock Exchange and they handle what business I have, and I have every confidence in them. Then we have the Vacuum; they retail and wholesale in Texas, and the Humble Oil and Refining Company, the Humble Pipe Line Company, Magnolia Petroleum Company, Magnolia Pipe Line Company, The Dixie Oil Producing Company, the Mid-Kansas, the Ohio, The Prairie Oil & Gas, the Prairie Pipe Line, Illinois Pipe Line, Seven Crude Oil Purchasing Company, the Continental, the Ohio Oil Company, and when you have all those competitors shooting at you from one direction or another it is pretty severe competition. The business is pretty evenly divided and that sort of competition is very severe and if permitted,—it was permitted when Senate Bill No. 180 was passed. We advocate the repeal of Senate Bill No. 180. When the price of oil was cut to ten cents a barrel in West Texas, when that proration was made, the man that signed that order knew you couldn't pump oil out of the ground for ten cents a barrel, he knew you couldn't pump it out of the ground for 20 cents a barrel. Those orders were signed just prior to this Legislature being called. A great many wells have been shut down and refiners have been deprived of a supply, and they immediately raised the posted prices to where a profit can be made on their production. That is where the law of supply and demand has been working.

There is another thing I would like to refer to in line with this investigation. It has nothing to do with conservation except that competition aids in the recovery of more oil from the ground and our land in Texas,—and that this so-called one hundred

per cent retail sales contract. Under that contract a refiner of gasoline and lubricating oil is,—well, I will assume that Senator Pollard is the Standard Oil Company and I am independent—.

Senator Pollard: Thank you, very much.

Mr. Pennington: He comes to me and says "You are handling four different brands of gasoline," and I say "Yes, sir," and he says "You are making 2 1-2 cents a gallon now, but if you will handle mine exclusively I will give you a cent and a half a gallon more, and further I will take care of all of your accounts, all the courtesy cards I issue, I will carry them for you," and that is a further extent. When that contract is made I throw everybody's gasoline out and a perfect monopoly is secured. That contract has cost thousands upon thousands of retail outlets to the independent refiners in Texas and all over the Union. There isn't any question but that if that contract is permitted to continue there will not be any particular reason for there being any independents because there will be no outlet to which he can sell it.

Now, we go over to the Railroad Commission. We have a great deal of respect for Judge Terrell and Mr. Smith and Governor Neff. We have every confidence in their integrity. We do doubt seriously though that the oil and gas department itself has been equipped with the necessary technical talent to bring in the necessary information for dealing with conservation. Conservation is a great technical problem. It is only in the last three or four years that engineers have been brought into the oil fields wholesale. I have been in the field, except for five years spent at college,—I was out in the field and stayed two years and then went to college and came back, and for many years there were no engineers and it wasn't until 1928 and since 1928 when it was proved that engineers were necessary that they have gone into the field wholesale, staffs, boards, consulting engineers, division engineers, resident engineers, there are more of them in the field, you run over some of them sometimes, and they are applying methods of precision to the production of oil, and when those methods are to be supervised quite naturally the supervisor must be equally proficient, and that is the only defect we see today in the

administration of our law on conservation. Wells have to be cemented, they have to be very carefully drilled to protect the upper sand from water, protect the gas to keep it from blowing out, save human lives, and things of that nature, and those matters are very properly subject to the police control of the State. We concur in all of those measures of conservation. We would like to see them enforced. We do not like to see our property damaged by our neighbor across the line, and we have some neighbors who are not altogether mindful of what the other fellow is entitled to, or what the other fellows rights are, and conservation can be served by throwing about the production of oil the same safeguards thrown about the operation of a public utility, or anything else that affects the general interest. I do not think a fair law in that respect would be combatted by anybody. No independent has ever denied conservation. No independent has ever attempted to attack conservation. The only attack the independent has ever made in the courts has been against proration. We have always believed we could do with our property as we chose provided we did not injure our neighbor. The one-eighth of a cent tax on oil would produce in Texas three hundred and seventy-five thousand dollars a year. That amount of tax would provide a suitable board to work under the present commission or under a new commission, a petroleum engineer in each field, and possibly two petroleum engineers in active fields, a competent geologist, a competent lawyer, versed in oil law, under such a board as set up in that way we believe the State of Texas would profit enormously, we believe that oil would be produced more economically and that the general business of oil would be served through conservation. I thank you.

Senator Hopkins: I would like to ask Mr. Pennington a few questions.

The Chairman: Senator Hopkins, all right.

Questions by Senator Hopkins.

Q. I might say, Mr. Pennington, your statement has interested me a great deal. From my personal standpoint it has developed for the first time what apparently is the consensus of opinion of the independents as to measures to be enacted by the Legislature, and it is along that line I

would like to ask further light from you. Do I understand you to say in your opinion that the Woodward-Wagstaff Bill providing for a new commission would give to that commission the power to exercise their opinion as to market demand, although it is not specifically written into the bill.

A. Yes, sir.

Q. You think that under the terms of the bill as proposed it will have the power to prescribe the amount of oil produced in the light of market demand as they see it?

A. Yes, sir. I forget the clause but there is one clause there that connects one pool with another,—if this pool damages this one in the opinion of the commission, then they can close this one down. That is exactly the situation we have now.

Senator Woodward: May I furnish him with a copy and let him point out the place that he thinks that does that?

Senator Hopkins: I would like for you to.

A. You are more familiar with it than I am.

Senator Woodward: If that is in there, I want to take it out.

Q. It has been commonly stated as the opinion of some that although not specifically stated in the bill, as a matter of practical operation, it would so operate as to give them that power and I want to get your reaction to that. Sec. G. of Sec. 6, Mr. Pennington, might be it?

A. That is one of them.

Q. To get that clear, you think subdivision G. of Sec. 6 is one place that would give that power to the commission?

A. Yes, sir.

Q. In your opinion, Mr. Pennington, would the terms and provisions of Section 9 of the bill, as appearing on page three of the advance printed copy, be calculated also to confer that authority upon the commission?

A. Yes, sir, under Section 9 the production of oil could be limited, and if you will allow me to add that the limiting of production arbitrarily can cause more waste than any other phase of production. An oil well should produce at its most economical rate, most efficient rate, and when we disturb that rate of production we cause waste.

Q. In order to get it clear for the record and my mind, you are of the

opinion that the limiting of production under given conditions creates waste?

A. Yes, sir. Would you like for he to tell positively how?

Q. Yes, sir.

A. One of the first orders of the Railroad Commission under conservation was issued in the northwest extension of Burkburnett. I had some wells out there flowing, wasting no oil or gas, and I had instructions to shut those wells in to a certain amount. I argued, of course, oil was two dollars and a quarter a barrel, and I argued that I wasn't wasting any oil, no physical waste of any kind, and wasting no gas, and that all of those wells would paraffin up because the oil had a good deal of paraffin in it, and they insisted that I close them in and I insisted that I shouldn't. They said "We will fine you," and I said "The only thing our company can do is to try out whether you have this authority, or not," so the company which I had then, which I have since sold, enjoined the Commission. Now, some of them around me did shut in and one of them is Tom Sowell of Dallas. He sold a piece of land with one well on it for two hundred and fifty thousand dollars and the well was making twenty-seven hundred barrels a day and he guaranteed it to make fifteen hundred barrels. He shut it in for five days and when he opened it up it wouldn't make quite a thousand barrels and he had to take off one hundred thousand dollars from the sale price. It cut that well down nearly two thousand barrels a day in production. Another one close by owned by Henry Hobbs was closed down by order of the Railroad Commission. It never did flow again, and it was a beautiful flowing well, and it never flowed again. If that is conservation I don't know what conservation is.

Q. I am glad that you mentioned that and right in that connection I want to say that it has been stated to me by people whom I conceive to be reputable geologists that if the power is to be given to the Commission to regulate the production of oil under proration that their powers be limited to say not more than seventy-five per cent of the potential. In other words, to leave it back in the hands of the lessee or the actual

operator, whoever he may be, full control over at least one-fourth or twenty-five per cent of his potential and not have it subject to the proration orders that might be handed down by a Commission. What would be your reaction to such a provision as that?

A. That would be endeavoring to repeal the law of supply and demand and we have had revolutions over that question. I don't believe it can be done.

Q. I think perhaps I am not making myself clear to you. The thought that has been advanced to me was that if the Commission is created that rather than for them to have unlimited control over all of the production that their control be limited to not more than seventy-five per cent of the production; in other words, limiting the authority of the Commission to be created. Would you think any limitation of authority would be advisable?

A. What would be the purpose of that limitation?

Q. The only purpose, I am not arguing this matter with you, Mr. Pennington, I am just asking for information, say that it would limit the power of the Commission to such a degree that it would not be in position of passing haughty or arbitrary rules, and it would leave in the land owner or operator control of at least one-fourth of the production. I don't know whether that is a good or bad suggestion but I am just asking?

A. I cannot subscribe to anything that will arbitrarily change the correct flow of an oil field.

Q. You spoke of an attempt to valorize the oil industry. Would it be your opinion that if the Woodward-Wagstaff bill if enacted, that its actual purpose would be an attempt to valorize the oil industry. What is your opinion on that?

A. I think that is section 6 and 9 of the bill.

Q. In your opinion that would be ruinous to the industry?

A. It has ruined us already, we have had it for three years and oil has gone down steadily since we have had proration.

Q. Would it be your opinion that such legislation would not only be derogatory but doing much violence to the industry that it would

do irreparable injury. In other words, is it your opinion that we would be better off without the bill than with it?

A. No, there are parts of this bill that I believe are good.

Q. It has been suggested to me that if there is in fact a new Commission created that would be a limit from the standpoint, of time, and a suggestion has been made that if the Commission is created its life should be not more than a year or eighteen months from the time it goes into effect, what would be your reaction to that suggestion?

A. There is not anything more upsetting than the change of the basic law. We have to adjust ourselves to it in any event, and I do not believe that that would help us a great deal. If we prolong proration we are still going to be in this trouble. If we build up this high potential we are still going to be in trouble. If the bill is enacted it should be one that we can work under and it should not be limited to East Texas, because we will have other fields after that one.

Q. I believe you feel that you practically reflect the attitude of the majority of the independents in the State, do you not?

A. I have put the question many times. We are always in favor of conservation, we are in favor of speedy trials in the courts. We are willing to stay within our constitutional rights, or any law that can be passed, but we are not willing to surrender control of our property to somebody else without due process of law.

Q. Right in that connection, Mr. Pennington, would this sort of situation, which I will now outline, in your opinion meet the suggestion without a Commission? If this Legislature should strengthen the common purchaser pipe line bill, providing for ratable takings, providing means whereby the railroad commission could obtain proper injunction against those that violate reasonable orders, and provide a means whereby penalties would be enforced during the pendency of a restraining order and so as to increase the Railroad Commission's facilities by giving it technical officers and experts, don't you believe with that sort of adjustment, and by giving them proper au-

thority, that such results would be achieved rather than through the route of a new commission?

A. That question has many barrels to it. We have never asked for a new Commission. We believe, as I stated in my short talk, we believe that the present Commission with a petroleum engineer of a good many years experience, say ten years experience, with a geologist and a lawyer could administer the law under the direction of the Railroad Commission and with the unbiased opinion secured from each technical man in the employment of the State, so as not to be running to somebody for free information all the time, and that information cooked up the way they want it all the time, that is our main objection; and another thing we are in trouble now, I don't believe we ought to change orders in the middle of the river.

Q. Would this sort of situation in your opinion meet the approval of the independent oil men: the creation under the now existing Railroad Commission of an oil and gas division, say of three members, one of whom would be a practical oil operator, one a technical officer, and one a competent oil attorney to administer oil and gas laws, and its production in reasonable manners, if conservation under the jurisdiction of the present Railroad Commission, would that sort of set up in your opinion be more beneficial than that of a new Commission on the other hand?

A. As a part of a new set up that would be much more acceptable.

Q. You think it would come more nearly to meeting the approval of the independent oil operators and refiners of the State?

A. Yes, sir.

Q. What would be your thought as to combining with the new commission, if it is created, the administration of other natural resources of the State, such as water power, sulphur and all other natural resources? Do you believe that a new commission that would administer the oil and gas laws would function as well as if it had the administration of the other natural resources combined with it, as it would if it left the other natural resources out and confined itself fully and alone to the oil and gas business?

A. Of course, there are many things allied to the oil and gas business. Of course, underground water, artesian water would be very closely allied to the oil business.

Q. It has been advocated that if a new commission is created that it will combine under that commission other boards, such as the Board of Water Engineers, that deal with the issuance of permits to the various power companies, for the development of public water resources, or combining of the Reclamation Engineers Department, which has to do with the surface water; and perhaps giving to that new commission power on the theory of the conservation of oil, to control agricultural products. Would it be your opinion that such commission would function as well under those combined efforts as if it were confined to the oil and gas alone?

A. The conservation of our flood waters and water power and irrigation projects is a matter purely of civil engineering. Oil engineering is mechanical, they are two different things entirely. Then reclamation work is also civil engineering.

Q. Don't you believe it would be dangerous public policy to so combine such power? In your opinion, wouldn't it be a dangerous public policy to combine oil and gas with that of the water power?

A. I don't see any danger in it, it would be confusing. It has resulted in confusion under the present condition. You take Mr. Parker with the Railroad Commission, he is a very competent civil engineer in the railroad department, but he was taken out of that and put in the oil division without any training whatever.

Q. Let me sum up what I conceive to be your viewpoint, it would be this; that in your opinion, and perhaps the opinion of the majority of the independent producers and refiners of the State that this situation can be best controlled and regulated to conserve oil and gas by making use of the existing governmental agencies rather than the creation of new agencies independent and free from those which you now have?

A. Yes, sir, we have plenty of Commissions now.

Senator Stevenson: I would like to ask some questions.

The Chairman: Proceed, Senator Stevenson.

Questions by Senator Stevenson.

Q. Do I understand you to say that you disapprove the posted price method of buying oil?

A. No, sir, I simply stated what the system was.

Q. There is very little oil now sold under contract?

A. Some is sold under contract at times, some in southwest Texas and some in East Texas.

Q. Oil is the only commodity of any importance that is not dealt with on some exchange, that is selling short and dealing in futures?

A. Well, I am not advocating any change in our present system, but the posted price system allows the price of oil to be fixed. I do not say there is any conspiracy between the purchasers, but what I did say is that when you have twenty Standard Oil companies in the State of Texas, one big company can fix the price and the others follow, they don't have to fix it. If Anderson-Clayton should get out of the cotton market the bottom would drop out of it.

Q. It is pretty close to the bottom now.

A. Yes, but it would go further if they were to get out of the market.

Q. Well have you any suggestions to make whereby the marketing system could be improved?

A. As to the marketing of oil?

Q. Yes.

A. The only thing that I would like to do would be to open the market at tide water. Now, the market of oil is in fact based on the price at tide water, like cotton at Houston. When you go back to the interior and deduct the freight rate and cost of handling that is the price at the interior. If the conditions exists now we cannot reach that market down there. If we have excessively high rates of transportation we can't send our oil to tide water because of that competition. We have to pay freight and our competitor does not have any freight charges to pay, and we cannot meet that competition in the market, because we have no pipe lines. The independent has no pipe line from which to recoup his losses. Every tub has to stand on its own bottom and if he makes any money he has to make it in the purchasing and re-

fining because he has not a pipe line to support him and the entire setup is such that with excessively high rates the independent producer cannot reach tide water today, where our oil is really sold. That change would create a marketing system which would benefit the whole oil industry in the State of Texas, the refiner and producer alike.

Q. Would any regulations of pipe lines as common carriers tend to correct that difference?

A. If pipe lines were severed from all forms of business, it would benefit Texas oil immeasurably.

Questions by Senator Woodward.

Q. You have a copy of the bill there, haven't you?

A. Yes, sir.

Q. Before getting to the portions about which I want to interrogate you, I will ask you this: If I understand you, you are opposed to any bill which would authorize any commission to take into consideration the reasonable market demand for oil or gas as a basis for proration?

A. Yes, sir; I do. We have had that for three years, and it has gotten us into some awfully bad trouble.

Q. I agree with you so far. Now, you were interrogated with reference to this bill, and expressed yourself as being fearful that in some sections of this bill, maybe it was broad enough to authorize the Commission to do that. Well, with the statement that this bill was not intended to have that effect, I want to ask you these questions, and see if I can not straighten you out on that. Just take the bill and turn to the section and words that you think might probably bring that about. You referred to Section 9 a while ago. Have you that there? Maybe I can make it clearer.

A. I have a marked copy.

Q. Let me interrogate you along this line: I am sure I know what you have reference to. Section 9 in part reads as follows: "Upon the initiative of the Commission, or upon the verified complaint of any party producing, storing or transporting crude petroleum oil or natural gas in this State that waste of crude petroleum oil or natural gas is taking place in this State, or is reasonably imminent, the Commission may hold

a hearing, at such time and place as it may fix," and so on. Now, you construe the language "that waste of crude petroleum oil or natural gas" means any kind of waste, don't you?

A. No; I don't mean economic waste.

Q. Well, that would not refer to economic waste, would it?

A. I hardly think so. If you combine that clause with the one up there—with the one about creating or producing unnecessary fire hazards, that covers storage; they have waste incident to—

Q. What I mean, Mr. Pennington, was that the word "waste" as used in that section, of course means the kind of waste that is described or defined in the Act?

A. Yes, sir.

Q. It don't mean waste of any imaginable character that the Commission might take into consideration, such as over and above the reasonable market value.

A. Yes, sir.

Q. The term "waste", as used there, would be confined—and I think all lawyers will agree with me—would be confined to "waste" as defined and described in the Act. Now, let's come to Section 5, which is the definition of "waste" in this bill. First, we define it in the statutes of this State relating to crude petroleum oil or natural gas. Those are the "waste" statutes now on the books, and which exclude economic waste by the amendment of 1929. The next one is Section (b) of the Act, "waste incident to or resulting from so drilling, equipping, locating, spacing, or operating wells as to reduce, or tend to reduce, the ultimate total recovery of crude petroleum oil or natural gas from any pool or area." That would not include reasonable market demand, would it?

A. No; that section would not by itself; but now, "tend to reduce the ultimate total recovery of crude petroleum oil or natural gas from any pool or area," before we know what that ultimate recovery might be, might be generations from now; it is largely problematical as to what it would be; and there is nothing so discouraging as an indefinite law like that.

Q. Don't you agree that it is necessary to have some law that will enable some Commission to prevent

the drilling, or spacing, or operating of wells as would tend to destroy the total ultimate recovery, whatever that total ultimate recovery would be?

A. As a general proposition, there is no question but what our oil should be safeguarded.

Q. And it should be so operated as to produce the greatest total amount as possible?

A. Yes, sir.

Q. It should not be so operated or drilled as to unnecessarily let in salt water and destroy the well?

A. True.

Q. In other words, you agree with me, I am sure, that we ought to have in this State some law by which a commission would have the power, after a hearing and after an investigation, to prevent the operation of any well or set of wells in such a way as to unreasonably destroy the ultimate final recovery of oil?

A. Well, a provision like that, you would just simply have to rely upon a preponderance of testimony.

Q. It is an issue of fact.

A. No; you can't prove it. You would have to go four or five years from now to see that. It is very indefinite clause.

Q. Mr. Pennington, the point I am trying to make—I understand nobody can tell how many barrels will come out of any given well, but what I am talking about, regardless of whether it will produce a million or two million barrels, isn't it advisable to have some law by which to prevent the operating of that well in such a manner that any man would agree would result in destroying ultimate production in that well?

A. That is quite true; but in practice, we don't go at it in that way. We go at it in such a way as to prevent excessive waste of gas.

Q. How about excessive waste of oil through water coming in?

A. But water is not a menace.

Q. Salt water is not a menace?

A. We rely on the water to drive oil in. We don't produce very much where we don't have water.

Q. You don't mean to say you can't endanger and actually destroy a well by bringing in salt water?

A. I didn't say that.

Q. Well, that ought to be prevented then?

A. The water should be controlled; water is an asset, if controlled.



Q. Sure; then it ought to be controlled?

A. No question about that.

Q. And that well ought not to be permitted to be operated in such a manner as to permit the destruction of that well by salt water?

A. You could not prevent the destruction of that well permanently, because water takes all of them eventually. You see, water gets them all eventually.

Q. All right, let's get down to the next section, and see if that includes reasonable market demand—Section (c), "waste incident to or resulting from the unnecessary, inefficient, excessive, or improper use of the gas, gas energy or water drive in any well, pool or area; however it is not the intent of this Act to require repressuring of an oil pool, or that the separately owned properties in any pool or area be unitized under one management, control or ownership." Now, that does not take into consideration reasonable market demand, does it?

A. If that word "inefficient" was taken out, that would be a very good clause, and we would have it now, if we had out of that present law these few words.

Q. The question I was asking you was to point out language in the bill that would authorize the Commission in dealing with this subject matter in preventing waste to take into consideration the reasonable market demand for oil?

Q. Section 5 reads, "The production, storage or transportation of crude petroleum oil—

A. That word "storage" will make you limit the production so that it would not be storage that was in Texas. You can take it out of Texas and store it, and that places us at a disadvantage.

Q. "The production, storage or transportation of crude petroleum oil or of natural gas, in such manner, in such amount, or under such conditions as to constitute waste is hereby declared to be unlawful and is prohibited." How do you interpret that word "waste"?

A. Well, we know oil when oil comes out of the ground—

Q. I mean in this bill, where we use the word "waste;" that, is, we prohibit and make unlawful the production, storage or transportation of crude petroleum oil or natural gas

in such a manner as to constitute waste.

A. Yes, sir.

Q. Now, what kind of waste are we talking about? Is it physical waste?

A. Physical waste.

Q. That doesn't take into consideration the reasonable market demand, does it?

A. If you prohibit storage under the ground. On the ground, it creates physical waste. Then you must produce according to market demand; you can't store it.

Q. That would be your objection to that section, that under Section 5 the commission could take into consideration the reasonable market demand in determining the amount of storage?

A. Yes, sir; that is, in Texas; but you could take it out of Texas.

Q. So you don't define the term "waste" to be waste as defined in this Act?

A. I am taking the words as they are,—as they appear here.

Q. So you don't define those words "waste" as "waste" is defined in this Act?

A. Senator, I am not a lawyer, you understand.

Q. Mr. Pennington, the reason I was asking these questions, it occurs to me that frequently the layman's interpretation or construction of a certain word is probably confusing, not only to him, but to others to whom he repeats his construction. Now, I think there is no question but what every lawyer would agree with me when I say that waste as used in this act, wherever it is confined to the kind of waste described in that act, if it is physical waste, that is the only kind of waste it deals with?

A. If any doubt about it, why not combine 5 and 6, and put a storage clause in it?

Q. There would be no objection at all to it. But I believe you were confused as interpreting this section as being broad enough to include reasonable market demand, because you interpret waste as being any kind of waste, which would be waste any excess of production over and above reasonable market demand.

A. Now, of course, on these other matters of waste, using too much gas, improper drilling, cementing of

casing, and so forth, there is no dispute on that.

Q. No dispute at all.

A. That is common ground for everybody.

Q. The point is, Mr. Pennington, and I think that we all agree on the subject, and that is, you don't think it is good policy for this Legislature to write into the law a provision whereby the commission would be authorized in considering,—in determining whether it is wise or not to take into consideration the reasonable market demand of oil?

A. No, sir.

Q. And your idea is to have a bill so worded as that they could not take that into consideration?

A. Yes, sir. Very clearly, but I do not mean to say that we ought to produce oil disorderly—

Q. I understand.

A. —because conservation is common ground for everybody, the producer, the public, and the State, and nation.

Q. You recognize, Mr. Pennington, that there are many ways by which pools or wells might be so drilled and operated as to bring about almost shameful physical waste of the natural product?

A. Unquestionably.

Q. And that is being done—isn't it?

A. Certainly,—unquestionably.

Q. And that ought to be prohibited?

A. And, if the present law was amended, so as to take out a few words, "except an oil well," the commission would have ample power under it.

Senator Purl: Mr. Chairman, I would like to ask one or two questions.

The Chairman: Senator Purl.

Questions by Senator Purl.

Q. Mr. Pennington, the Legislature in Kansas, on March 16th, or about that time, this last year,—just recently, passed a bill relating to the regulating of the production of petroleum oil, and prohibiting waste. It defined waste as follows: "Section 2. The term waste, as it is used herein, in addition to its ordinary meaning, shall include underground waste, surface waste, and waste of gas energy, and the waste incident to the production of crude oil or

petroleum. The Public Service Commission shall have authority to make rules and regulations for the prevention of such waste, and for the protection of all fresh water strata and oil and gas-bearing strata encountered in any well drilled for or producing oil." If this section was put into the Woodward bill, would you consider that this definition would be in a way authorizing the commission to take into consideration economic waste?

A. I don't think so.

Q. Sir?

A. I don't think so. That section itself would not take in economic waste. That one section, "underground waste," Senator— You know, you talk about hazard. I haven't been here much. This is the first time I have been here this length of time in my life. I have heard about these hazards. The insurance business has hazards, the banking business, the railroad business, the pipeline business, and this underground waste is just about like all the others. You can't prove it. It is a very indefinite term, and under that clause, it might bring some disaster if we should—

Q. It is the only clause in the Kansas bill that makes reference to it. Now, do you construe that would be any authority for the Railroad Commission, if we enact it, to take into consideration reasonable market demand, or economic waste?

A. I don't think so.

Q. All right. Now, you spoke awhile ago about the big oil companies making these hundred per cent contracts—

A. Yes, sir.

Q. —with the filling stations?

A. Yes, sir.

Q. How long have you been in business in Texas?

A. Excepting for five years of college, I have lived in Texas all my life,—thirty years.

Q. You have been in the oil business how long?

A. Thirty years.

Q. Were you familiar with the bill that was introduced in the Regular Session of this Legislature by Senator Woodward, known as the "Divorcement Bill"?

A. Yes, sir.

Q. What was the attitude of the independent producers and independ-

ent oil men as to effectiveness of that bill, and whether it should be passed or not?

A. I think most of the independents favored that bill.

Q. Do you now favor that bill?

A. With the divorcement of the filling stations from—

Q. To divorce the filling stations, and maybe some other activities from the oil business generally?

A. Well, any bill that would take away the profits of a public utility used as—in private competitive business to defeat competition, would be favored, I think.

Q. Under present conditions are the chances for an independent man growing greater or less to succeed in the oil business?

A. If we pass this bill as written—

Q. I am not asking you that.

A. Now—

Q. Now, under the present laws, is the chance of an independent man growing greater or less to succeed?

A. Growing smaller and smaller.

Q. Now, will the enactment of this bill help them?

A. It will help them out of business.

Q. Sir?

A. It will help them out of business?

Q. Yes, sir.

A. I won't help them at all.

Q. How will it help them?

A. It will help them entirely out of the business.

Q. You mean it will ruin them?

A. Yes, sir.

Q. Will the passing of this bill help or retard the major companies?

A. If the independents are out, certainly it would help the major companies. This bill would destroy the credit of the independents, Senator?

Q. Then, is it your opinion that if this legislature passes this measure, that we will not be helping the oil industry generally, but will be helping one specified branch of it?

A. There's no question about it. Under this bill, we will have no more independents. Not under this bill.

Q. What could this Legislature do to help the independents?

A. By affording clear, equal access to the markets of the world. You do that in anything. A farmer can dispose of his cotton at the same price as anyone else, to tidewater. He is not forced to sell it to anybody, but

can ship it to tidewater and sell it himself. We are tied to the interests of the pipeline company's excessively high rates. Our competitor has an advantage, I will whip any competitor twenty to thirty cents a barrel, and if you will give me ten cents a barrel advantage, I will whip any competitor I have.

Q. Do you know whether or not in the last few years there have been considerable improvements in the refining processes throughout the entire country?

A. Material improvements, Senator.

Q. All right.

A. Profound improvements; yes, sir.

Q. Isn't it possible for a small refinery with modern machinery to make gasoline cheaper than some of the larger companies that have antiquated machinery?

A. Well, at this particular time, the cost of purchasing crude is very low, and we can skim over it at a very low cost, you see, so that the cracking processes are not now making any money. It would be better to shut them down and skim right now.

Q. Yes, sir.

A. When oil is high, the cracking processes are profitable, you understand, because in cracking, we use high temperatures,—seven or eight hundred degrees, and that is getting to red heat on iron, and they use very high pressures, and it is dangerous. It takes very heavy one-piece drums to do it with, and all of that is expensive. It would depend on what type of refinery you mean. A new refinery, or an antiquated refinery as I take it, you would mean a refinery with a shell still, which is very expensive to operate and very expensive to maintain. With a new plant consisting of what we call a fractionating column and pipe still, is very cheap to run large quantities through it, and get a better separation, and it is very economical to operate.

Q. Speaking of the term "conservation," purely from the standpoint of conserving the natural resources, and not of waste?

A. Yes, sir.

Q. Doing it for the betterment of society?

A. Yes, sir.

Q. Are the laws on conservation in Texas now adequate?

A. If you take about five words out of the present law, you would have all the law you need.

Q. What five words would you take out?

A. These words, "except an oil well."

Q. (By Senator Hopkins) Excepting what?

A. "Except an oil well." Wait a minute. I will get it. I don't believe I have it, but anyway, it provides that we must not waste gas from a well, and then says this shall not apply to a well which produces oil.

Senator Woodward: For your convenience, I will read that Article. It is Article No. 6008. It reads now, in the statute that is now in force: "Any person, co-partnership or corporation in possession, either as owner, lessee, agent or manager, of any well producing natural gas, in order to prevent the said gas from wasting by escape, shall within ten days after penetrating the gas-bearing rock in any well, shut in and confine the gas in said well until and during such time as the gas therein shall be utilized for light or fuel or power; provided, that this shall not apply to any well that is operated for oil." That is the clause you are talking about?

A. It's the one under that clause. I will say this, Senator, that when we find oil in the ground—discover a pool.—I think you have had it explained,—that the gas is in solution with the oil,—if we produce any oil, we must produce some gas with it.

Q. (By Senator Purl.) Yes, sir.

A. And this clause that the senator read excludes oil wells from the description of waste of gas, you understand.

Q. All right.

A. Now, if you write a clause limiting the amount of gas that can be produced with oil, that limitation can not include an arbitrary number of cubic feet. It can only include the general rule.

Q. All right.

A. Yes, sir.

Q. I know nothing about the oil business, and this question may sound silly to you, but it doesn't to me. How do you determine what is an oil well, and what is a gas well? Does one predominate—one over the other?

A. If a well produces oil, it is an oil well.

Q. Even though it may be producing a million times as much gas as it does oil?

A. Yes, sir, that's true.

Q. Well then, whether the Railroad Commission—if there is much more gas being wasted than there is oil, should they not have the authority to declare it a gas well, and close it down?

A. Now there was a controversy some years ago between the Humble Oil & Refining Company and the Railroad Commission as to whether it was a gas well, or an oil well up there at Ranger.

Q. All right.

A. It didn't make any difference which it is. If we waste one of them, we waste the other. I don't see any argument to it. I don't think we should make any distinction. A gas well may not produce any oil, but every oil well produces gas.

Q. We have been called down here to pass conservation laws.

A. Yes, sir.

Q. Now then, what law could we pass to better conserve our natural resources, if any?—at this time?

A. Well, now, Senator—

Q. You said five words a while ago. Any more?

A. Our association didn't want any session of the Legislature. Our association didn't want any more laws. We don't want a session of the Legislature.

Q. Who did want one?

A. Mr. Farish sent out letters all over the state, to banks, and chambers of commerce, and people like that asking them to wire the Governor asking him, and asking their representatives to have a session of the Legislature, but we didn't do it. We went into the San Antonio Chamber of Commerce,—into the oil and gas committee, and we told them that we had been down here trying to aid the Legislature, and that we couldn't do anything or get anywhere with it, you understand—requesting Mr. Farish to wire the Governor to hold a special session, and we asked the chamber of commerce to wire the Governor not to call a special session, and the chamber of commerce did. And now they come in with the letters from Mr. Farish, where the San Antonio Chamber of Commerce, as I understand it, wrote

six hundred letters to all the chambers of commerce in Texas, asking them to wire the Governor.

Q. Isn't it your opinion, so far as the independents are concerned, that they can weather this storm, and will sink or swim without any legislative aid?

A. No, sir.

Q. You can not weather it?

A. We can weather East Texas.

Q. Well, are the independents asking any legislative aid?

A. We have asked for a couple of years for regulation of pipe line rates and just equal — —

Q. Is that all?

A. No, sir. We have asked the filling stations be separated from the other phases of the business, and we did ask last year for the common purchaser law, and we would like to have that law strengthened, because it has not been enforced.

Q. We passed the common purchaser law, but didn't make the appropriation for it?

A. You made the appropriation for it, but — — —

Q. I know. You got the law, haven't you?

A. Would you let me explain that?

Q. Yes, sir.

A. You appropriated sixty thousand dollars for it, but Governor Moody vetoed it, and said at the same time that he would grant a deficiency appropriation to cover that law, but there has been no appropriation asked of the Governor for that.

Q. Outside of the money phase of that bill, you have got that law?

A. Yes, sir.

Q. Now then you want to divorce the filling stations from the major companies—from operating filling stations?

A. We believe that would be proper.

Q. All right. Then you want some adequate pipe line regulations?

A. Yes, sir.

Q. That hasn't anything to do with conservation in itself, has it?

A. Oh, — — —

Q. That is economic merchandising, isn't it?

A. The economics are closely allied with, but separate from conservation.

Q. All right.

A. If the price of oil goes down

to where we can not pump it, then they don't really conserve.

Q. If this Legislature could divorce them from the filling stations, and regulate the pipe lines, then you are willing to shove off?

A. If you will separate the pipe lines from all other business under equal rates, we don't care. We will give the major companies fifty percent advantage. If we get it down to where they only have a fifty percent advantage, we will feel like we are doing fine.

Q. So far as proration is concerned, it is to save the natural resources for the benefit of the State? —for the benefit of society?

A. Yes, sir.

Q. Do you think we now have adequate laws on the books on that subject?

A. Well, I wouldn't say that. I would say they are not administered adequately.

Q. Well, if they are properly administered, in your opinion is there any necessity for legislation on that point at this time?

A. You mean — —

Q. Conservation laws?

A. You have now laws on the statute books, which, if enforced equitably and fairly, and justly, would effect all the conservation that you are going to effect under any law. All these injunctions you see here are on proration, and not on conservation. You won't find anybody to oppose conservation, Senator.

Q. I am not arguing that with you. I am not talking about the Governor and those letters. That is his business. We are down here, and we want to know if you feel that it is necessary and essential to pass any more laws to strengthen the conservation laws.

A. Well, Senator, would you give me until tomorrow morning, — — I would — —

Q. Anything you want to say.

A. I would have to go over that.

Q. You said a while ago that your group wasn't in favor of a special session.

A. No, sir; we weren't.

Q. Would you be in favor of one if it was necessary?

A. If we thought that the State of Texas would be benefitted by a special session, we naturally would urge it.

Q. Then, you were oposed to it?

A. We opposed it.

Q. I am not asking you why you were.

A. Yes, sir; we were.

Q. The reason you were opposed to it was because you felt that there was no need for more laws on conservation?

A. No, sir.

Q. Is that the reason?

A. No, sir.

Q. Why?

A. Because every law proposed in the former session was a duplicate of the Howsley bill and the Long bill,—unworkable bills. If they passed, we passed out of the picture.

Q. Were you opposed to it because you were afraid you would get hurt with it?

A. We knew we would get hurt under those bills.

Q. Did you oppose it because you thought it wasn't necessary?

A. We do not oppose any conservation laws you can enact, if it is applied equally and fairly, and to all alike.

Q. Yes, sir.

A. We do oppose anything that might take away our constitutional rights to property under the police power.

Senator Purl: That's all.

Senator Woodward: I would like to ask a question, if I may.

The Chairman: Senator Woodward.

Questions by Senator Woodward.

Q. Mr. Pennington, your statement a while ago that you thought this bill would put the independent people out of business kind of excites me.

A. Yes, sir?

Q. Because, I don't want them—don't want that to happen. I don't want to help pass any bill that would do that. And so, I would like for you to read there the section that you think would put the independents out of business.

A. Will you point out that section where the receivership will lie. Do you know which section that is? Where we have to give a bond?

Q. Yes, sir; I will get that for you in a minute. I think it is section 11, and section 12, probably.

A. Oh, yes; that's so.

Q. No; it is section number —

—It is the last half of section No. 10, I believe.

A. Now, in the first place, we would be required to obey an injunction.

Q. But what — —

A. Anyone the Commission complained of — —

Q. That doesn't mean just independents.

A. Well, Senator, it has been just independents so far.

Q. What I mean is, any person—

A. Any person.

Q. That makes no difference whether he is a Democrat or a Republican, an independent or a major, White or Black, or what not, would come under that provision.

A. Yes; but Senator,—That's what we are complaining of. The law has not been applied alike.

Q. It's not applied alike? This would apply alike.

A. Not under the machinery you have in this bill. You have no machinery in the field to enforce this bill. You have no one up there. You have no means of liaison between the field and the—the Capitol.

Q. Let's get back now to that question, because if you are correct,—and that is what I am trying to find out—if you are correct that this bill will do the damage that you say it will, we had just as well tear it up right now. Now, point out what it is in this bill that would put the independents out of business.

A. Now, back over here, the market demand is one thing—Senator, let me explain how that would do it,—

Q. Mr Pennington, you made a statement here that this bill—

A. Yes, sir.

Q. —if passed, would put the independents out of business.

A. Yes, sir.

Q. Now, I think you ought to be fair enough, having made this statement, to point out the provision that you think would put them out of business.

A. That's what I am trying to do.

Q. All right.

A. When you get to the storage clause—The small producer, you understand, who may be on one side of the line drilling some wells, and

there may be a very strong company on the other side drilling some wells.

Q. All right.

A. And the little fellow has to sell some of his oil to keep his drilling up and comply with his lease obligations, and he is worried about that, and if he violates an order, however, this bill would, under an order of the Commission, or a suit they could enjoin him from running any oil that went to storage. Is that true?

Q. All right. Now, let me ask you this question in connection with that.

A. Yes, sir.

Q. If he is a little man, or a big man, it makes no difference what class he is in.

A. Yes, sir.

Q. If he does violate the law, he ought to be subject to it.

A. The question of whether or not storage violates the law or not. We don't want to make a crime to produce any.

Q. I don't think this does.

A. Under this it would be; yes, sir.

Q. It would be only though if he was violating the law.

A. Senator, would you concede that I could do with my property—sell it to anyone that I chose, provided I did not injure my neighbor?

Q. Certainly.

A. Under this bill, if you sell it to anybody, the commission could restrain you, or sue you, and pretty soon you would wish that you didn't have any property.

Q. Do you construe this bill as meaning that if a person produces oil and stores it, or sells it to somebody else, they could be put in the hands of a receiver?

A. Well, the bill as originally had that in it, didn't it?

Q. As originally written?

A. There was one handed around here that had a provision for a receivership in it. Is that in this bill?

Q. There is a provision in this bill for a receivership.

A. Yes, sir.

Q. But no such provision as you have contemplated just now.

A. Well, now,—

Q. Mr. Pennington, you may have confused this bill with the Howsley bill.

A. Well, there has been a good many drafts of those bill made.

Q. Yes, sir.

A. But, when you go back into that provision that provides for a receivership, you understand, that immediately takes away the credit of the independents, and we will be destroyed, if there is any possible chance of him being put into a receivership—we haven't much credit left, Senator.

Q. Let me explain that to you. Mr. Pennington, if you have read this bill, you have not distinguished this bill from other bills. Let me explain to you under the terms of this bill, a receivership proceeding applies in this manner: that if any person, it makes no difference who it is, after the court of last resort has said that he must not do that which he has been doing, if he continues to do it in defiance of the court of last resort, then you can put him in the hands of a receiver. Now, as a public spirited citizen, you do not disagree with that policy do you?

A. Now, I may not have read this bill as it is printed now. The one I read was a mimeographed bill.

Q. The bill you read was probably by this Central Committee?

A. Yes, sir.

Q. Now, this is not that bill; that bill contained the reasonable market demand feature.

A. Well, Senator, when you have a law like that hanging over anyone, don't you think it is a little bit severe to a man trying to develop—

Q. Well, don't you believe that a man,—I don't care who he is, after the courts have said that he must stop doing a thing, and he continued to do it in defiance of law, what do you think ought to be done with him?

A. Well, I think we ought to come back to the Legislature, and make the law milder.

Q. And let him continue to do what the courts of the country have said and told him not to do?

A. No, sir; we have not advocated breaking any law.

Q. I am sure of that.

A. That is the first tenet in our Constitution, the support of constituted authority.

Q. I will ask you to answer this question.

A. Yes, sir.

Q. If the courts of the country have declared that it is wrong to

pursue a certain kind of business, don't you think you ought to obey the final words of the courts?

A. Yes, sir; certainly; but did you ever hear of one man doing a thing by himself? The pipe line joins in that.

Q. Why not put the pipe lines in the receivership too?

What I am asking you is this: If that man continues doing that which the courts say that he must not do, what do you think ought to be done with him?

A. You see, Senator, the question of his family is in that. It enters into that more than—we would put him in jail, if he did.

Q. Then he would be in the hands of a receiver sure enough?

A. Personally, but his family would not suffer.

Q. You would let his business run on in violation of the law, maybe through his son, or somebody else, and put him in jail?

A. No, we do not recommend ever violating the law.

Q. Mr. Pennington, as a matter of fact do you believe, or isn't it your belief that a man who brings in a well, so long as he is not endangering the life of anyone, or taking the property of somebody else unlawfully, should have the right to produce all the oil he wants, sell it to whom he pleases, at whatever price he wants to, without any interference at all from the Court?

A. That is what Judge Hutchinson said the other day.

Q. Is that what you believe?

A. A man should be able, so long as he creates no waste, and it is not against public policy, to produce all that he can of our natural resources and sell it in useful quantities.

Q. I am not arguing with you, I am trying to get your idea—you believe a man that produces oil should have the right so long as he is not endangering life and limb and not taking somebody's else property, should have the right to let that oil run into the air if he wants to?

A. No.

Q. It is his business?

A. No, he should not be able to destroy our natural resources. They should be put to some use.

Q. I am going to ask you this and not tire you or anybody else any further. You found an objection to an article in the statute wherein it

is provided that if a person brings in gas, unless he has a market for that gas he shall confine it, except he might use it for light, fuel, or power. Do you believe that is a good law?

A. Indeed.

Q. As applied to gas?

A. Applied to oil too.

Q. You also believe that said law ought to apply to oil?

A. Yes, sir.

Q. Now, that means this, if you bring in a ten thousand barrel well, or a five thousand barrel well of oil, unless you have a market for it you ought to be required to shut it in?

A. If you didn't have a market, you would have to shut it in.

Q. I am getting to what your belief is. You believe that is right, if he has no market he must shut it in except he can use it for light, heat and power?

A. Yes, sir.

Q. You agree with that as a good law?

A. Applied to gas.

Q. Do you think the same law ought to apply with reference to oil?

A. A great many time if you shut in, you ruin it, and you will not serve conservation.

Q. You said the law was faulty because it did not apply to oil wells?

A. Not in the sense you apply it. Oil wells are exempt from any regulations in conservation.

Q. Is that your understanding of the bill and that statute?

A. In your law it exempts oil wells.

Q. From any of the conservation statute?

A. No, sir, as to gas it exempts from conservation the gas produced with oil. Isn't that your understanding?

Q. No, that is not my interpretation of it at all. I believe that is all. •

Questions by Senator Pollard.

Q. You are acquainted with our statute against cattle being shipped with ticks on them?

A. Yes, sir.

Q. Now, in case a cattleman violates that order and the Supreme Court holds that he has violated that order, in that law does it provide you shall immediately put that man into the hands of a receiver?



A. No, sir, he is fined, and the Railroad too.

Q. Suppose the Railroad violates that law do we provide a receivership for the Railroad?

A. No, sir, it is a fine.

Q. Do you know of any civil statute in the books of Texas today that provides that the violation by a corporation or individual of a particular order issued by the Railroad Commission, the highway department, the Board of Water Engineers, or any other department of this State, would throw that man into the hands of a receiver if he violates the order?

A. I am not a lawyer, but I never heard of it except in the criminal statute.

Q. Do you know of any reason why we should discriminate in the oil business against the little man and it would result in your opinion as a discrimination against the little man and impair his credit by subjecting that man, when this man was doing what he had constitutional right to do, to being placed in the hands of a receiver for violating an order?

A. With that hanging over him what little credit the independents have got will absolutely be gone and they will go with it. If you have got a clause like that, with a law that can be interpreted liberally, that is a very dangerous law to the independents.

Q. If a permanent order of injunction was entered against that particular company for violating an order, that would not impair his credit, would it?

A. No, sir, if it was just a plain injunction.

Q. Then the difference in an injunction and the receivership would be the loss of the property of the independents?

A. Yes, sir.

Q. Are you acquainted with the percentage, or the amount of recoverable gas—I mean gasoline from escaping gas, in the Yates pool?

A. It is comparably small out there. The pressure is high and they haven't much escape of gas, probably two gallons, or a gallon and a quarter, something like that, at this time.

Q. You were present the other day when Mr. Foran testified as to the amount of gas escaping—I believe he said 5,000 cubic feet?

A. Yes, sir.

Q. In lifting a barrel of oil in that field?

A. That was in the Big Lake field.

Q. I wish you would please compare, on the basis of 5000 cubic feet of gas lifting a barrel of oil in the Big Lake fields, and three hundred feet of gas lifting a barrel of oil in the East Texas fields, give the comparative waste, the amount of recoverable gasoline per thousand and cubic feet in each field, and the amount of waste at this time in each field. I don't know how to say it, but please compare it?

A. The oil from the East Texas field is highly saturated with gas. If I take this pitcher of water and put salt in it until it is thoroughly saturated with salt and then put in some more, it will fall to the bottom. That is what we call a saturated solution. If we compress gas it will dissolve in this water the same as salt up to a certain point, depending on the temperature, gas will dissolve in this water or in oil either. Now, Big Lake has a surplus of that amount required for saturation. East Texas has a deficiency, which makes it almost impossible to create physical waste in East Texas by producing your oil with your well flowing as much oil as they will,—it is almost entirely impossible to create physical waste because you haven't much gas to waste.

Q. How about the Big Lake field; is there a physical waste of gas as is described here of 5,000 cubic feet escaping with each barrel of oil?

A. I would say that five thousand feet is excessive.

Q. That is a waste?

A. It would constitute waste, there is no question about that.

Q. Considering the present market price of gasoline would it be practical to operate in East Texas under the conditions as they exist now,—I believe you have one well to every hundred acres,—a casinghead plant or plants?

A. No, sir, all of the casinghead plants are losing money now, casinghead gasoline is so low in price and the plants are so expensive to build. When you start building a casinghead plant you have spent a million dollars before you turn around for getting the lines in and building a plant, and another thing you haven't

got enough gas in East Texas to build a casinghead plant.

Q. You have been in East Texas lately?

A. Yes, sir.

Q. You have heard the reports here that there is a hundred and sixty-five million cubic feet escaping in lifting four hundred thousand barrels of oil, I believe it is,—four hundred and fifty thousand barrels of oil in East Texas. You are acquainted with the gas pressure, the amount of gas in the field. Would you say that under the present condition that the escaping of that much gas is unusual and is waste?

A. That amount of gas is lower than any flush field I know of anywhere, and it runs all the way from one hundred and seventy-five feet up to about three hundred and fifty cubic feet per barrel.

Q. In East Texas?

A. Yes, sir, and that is lower than Sugarland or Raccoon Bend of seventeen hundred feet per barrel.

Q. That is in Raccoon Bend?

A. Yes, sir.

Q. Who operates that?

A. The Humble has the operating of them both.

Q. If it be true then that they have got five times as much gas escaping down there in lifting a barrel of oil, then that isn't waste?

A. I don't know of anybody that said it was.

Q. You heard Mr. Foran state the other day that the only field,—the large amount of waste was in the East Texas field, didn't you?

A. Let me see, I believe I heard him say that three hundred cubic feet per barrel in East Texas was waste, and five thousand cubic feet was not waste in Big Lake.

Q. How do you account for that statement?

A. I will tell you; the pressure of the gas at Big Lake approximates thirty-seven hundred pounds, and if you have steam at thirty-seven hundred pounds you have a great deal more power than if you have it at twelve hundred pounds, like East Texas, so the five thousand-feet per barrel of Big Lake oil has a far greater amount of energy to lift the oil from the great depth of eighty-seven hundred feet than you have got in East Texas. That statement seems to me to contradict good engineer-

ing, that there is waste with three hundred feet to the barrel anywhere and somewhere else there is no waste with five thousand feet per barrel.

Q. Have you seen any physical waste of oil in East Texas in your various trips over that field?

A. Only in the case of fire, accidental entirely, not intentional, where people lost their lives.

Q. Is there more or less physical waste today in the East Texas field than in other fields in Texas?

A. Senator, the condition under which the East Texas field was laid out down in the ground are such that you are going to recover just about all of that oil over there under any method under which you produced it. Your cost of production may be a little bit higher, but you will produce it in any event, the matter of water, and things of that kind, are matters merely of telling the oil that we get, but water comes from only one side, the west, and it will gradually push all the wells up to the highest well and when they quit you will have just about all you will get out of that field.

Q. You have no oil property in East Texas?

A. No, sir.

Q. I believe Mr. Holmes, president of the Texas Company, testified Friday morning that the oil in East Texas was worth a dollar a barrel?

A. It is.

Q. How do you account for the fact that the price of oil in East Texas has been cut down to ten cents a barrel?

A. I will tell you; when the East Texas field came in I was over there, in January, the pipeline companies were watching it very carefully and when the second well came in then it became necessary to figure on building pipe lines, because it was there. They advised the operators over there—we were negotiating for some property which my company bought and sold because of the pipeline situation,—they first proposed to if East Texas would unitize they would build a pipe line.

Q. What does that mean?

A. To pool all the property and let somebody else run it for you.

Q. Does that mean if the East Texas boys who owned the leases in January, practically eighty-five per

cent of the leases, were owned by independent people?

A. Yes, sir.

Q. Now then, the major oil producing companies proposed that if you would consolidate all of the leases in the proven area and put it under the control of the major oil producing companies, that—

—A. That is what it usually leads to.

Q. That is what happened in Van?

A. Yes, sir.

Q. That is a unitized field?

A. Yes.

Q. That they would build pipe lines to the producing territory?

A. Yes.

Q. Otherwise they would not?

A. No.

Q. Go ahead.

A. East Texas rejected that proposition. The next rule was if they would prorate they would build a pipe line, and the next was if the Legislature bill they wouldn't build any pipelines. In the meantime, these wells kept on coming in. What would you have done? You would have done just like anybody else, you would have built a short line to the railroad, sold some oil, and started shipping it. That is what happened in East Texas.

Q. About three weeks ago I understand from talking with operators and also with Mr. Martin, who is the oil and gas supervisor of the East Texas field, there were one hundred and eighty wells owned solely by boys who owned from one to two and three wells, that were not able to obtain pipeline connections with any pipeline company. Some of those wells have been standing there with a potential production of forty thousand barrels for three and four months and being offset by other wells which were connected?

A. Yes, sir.

Q. Is that condition what brought about the distressed oil market in East Texas?

A. There is no question about it; it always does.

Q. What particular branch of the oil business, that is in comparison to grouping, major, independent or middle man, or who was responsible for that condition existing in the field?

A. Of course, the buyers of oil, the customary buyers of oil, did not

buy in East Texas, and East Texas had to do something else, and that depressed the price of oil.

Q. Who were the customary buyers?

A. The biggest buyers,—they buy two-thirds of the oil,—is the Standard Oil subsidiaries.

Q. You named them today?

A. Yes, sir. The Humble is the biggest buyer, then the Magnolia and the Atlantic. They are all buying East Texas.

Q. Do you know the general practice over there of going around—I believe they call them oil brokers.—was it or not a general practice for these oil brokers to go to the wells that could obtain no connections, and say "Look here, Mr. Smith, we will give you ten cents a barrel for one hundred thousand barrels and agree to run it within the next few days" and didn't that same broker take that contract and deliver it to these very fellows who refused to buy it at the well?

A. That is my understanding, Senator. The way they do that they ship it to New Orleans and bill it through to themselves and you can't trace who it goes to, but we understand generally and have traced shipments that have gone into the hands of the big companies which they refused to buy at the posted price when we had a posted price.

Q. The Humble maintained a posted price of sixty-seven cents for some time in the field. Did they buy generally, or just ship the oil from their own wells? Did they buy it generally over the field at that price?

A. No, sir.

Q. How do you account, as an experienced operator of oil, for the fact that on the same day that the Humble Oil Company cut the price of oil in East Texas from sixty-seven cents to either thirty or thirty-seven cents,—which was it?

A. Thirty-seven.

Q. That the Governor of this State issued a statement to the papers, in the same paper, of the same date, to the effect that the deplorable condition of the oil market brought about by the East Texas field, necessitated the calling of a special session of the Legislature?

A. Oil was cut to ten cents when that happened.

Q. I mean the first time.

A. You mean the first time?

Q. Yes, sir. That was the day the Governor decided the Legislature ought to meet.

A. That was several days before it was called.

Q. Oh, yes, a good while back?

A. That is what it usually leads

A. Yes, I remember that, yes. You know there has been quite a close connection between our Governor and The Humble Company, there is no question about that. We were blocked over in the House trying to write a conservation bill in March. You understand they asked us to aid the House Oil and Gas Committee in writing a Conservation Bill and my idea that it was done only to secure a market demand.

Q. Now, Mr. Pennington, do you know of any condition in oil market of Texas on the date that the price was cut by the Humble Company from sixty-seven to thirty-seven cents that justified a cut of one-half in the price of crude oil, when that cut was not made in any field in Texas at that time?

A. It was not done in any other field at that time. Furthermore the market for refined oil had not declined.

Q. Had the market to which the oil from East Texas was going declined?

A. It had not.

Q. Was there any other reason, other than to enforce legislation, for the cut in the price of crude oil in East Texas on that date?

A. Yes, sir, there was some reason other than that. Property from which thirty-seven cent oil is produced is worth less than property from which sixty-seven cent oil is produced and they were buying oil from that property at the same time that cut was made. If at the time they cut the price of oil they had discontinued buying East Texas oil there would have been an evidence of good faith in the cut, but there was not, they were buying all of the time, and the idea was to depreciate the value of that property and that is all.

Q. Do you know of any economic reason for cutting the price to ten cents a barrel, any economic reason to cut the price of oil in East Texas and raise the price of oil to forty-seven cents in West Texas and Oklahoma, when the pipe line was transporting the oil from Oklahoma and West Texas, which is a greater dis-

tance than from East Texas. Can you explain why that is being done?

A. As I explained before, Mr. Walter Teagle stated when Powell was going good that the flush field would have to stand the burden of low prices. I have never understood what that burden was. You have got good oil in East Texas that sells for less than forty cents.

Q. If you were buying oil and had the power to buy as much as the Humble Company, the Magnolia or the Texas Company, and you were using that oil and receiving it at Beaumont and Port Arthur, and had pipe lines to East Texas, and had pipe lines to North Texas and Oklahoma, would you pay less for the oil closest to your base or furthest away?

A. You would naturally pay more for oil near the base. Our world market is on tidewater, or at the seaboard to the foreign market, and the further you get away from tidewater with any commodity you deduct more freight, therefore the commodity is worth less money. There is no reason except an arbitrary adjustment of this price, where East Texas oil is so low as compared to oil that bears a higher freight to tidewater.

Q. The East Texas oil field was opened up entirely by independents?

A. Yes, sir.

Q. And at the time the major oil companies took the position there was no oil in East Texas and refused to buy leases?

A. Mr. Wallace Pratt, the director of the geological and lease department of the Humble Oil Company stated in San Antonio at a meeting over there—they all turned it thought of East Texas they should bow their heads in humiliation; that to think of such a great field being over there and they all turned it down flat.

Q. Isn't it true that Mr. Pratt, isn't it true that they refused to permit the buying of leases around the Joiner area after the well had a drill stem test, they still said it was a fluke?

A. Yes, sir.

Q. And in doing that practically every independent oil man in the United States that was broke slipped over there and bought a lease?

A. Yes, sir, and some of them are worse than broke today.

Q. And most of them are going to lose it?

A. Under present conditions they

are hanging on with a very short string and they will have to turn loose under these arbitrary low prices.

Q. That may be one reason for the low prices of crude oil in the East Texas fields today.

A. That is the reason.

Q. In your opinion that is the only reason?

A. Yes, sir. There are one hundred and twenty thousand acres in East Texas. There was a little of that held by some of the major companies before the first well was drilled, and there was probably five per cent of that in the hands of the major companies, and they all rejected the idea there was an oil field there. The independents didn't have any sense and went there and bought it and started drilling wells and developed the big field and all of this tremendous production with a very fine grade of oil. Now it would be very natural,—when Dad Joiner sold his property he got \$13,075.00 an acre, well, 100,000 acres at that price would be \$137,500,000.00. That is too much money, when you cut the price down you can have it for your own price. If the Standard Oil Company had not bought any property there at the time they put the price down there would be an element of good faith, but at the time they cut the price they went in there and bought property, which is bad faith; they showed a ruthless disregard of property right, which the Standard Oil Company has never failed to show whenever they had an opportunity to do so.

Senator Oneal: Mr. Chairman, I would like to ask a few questions.

The Chairman: Senator Oneal.

Questions by Senator Oneal:

Q. You stated that in March you were blocked in the House in something you were trying to do. Who blocked whatever you were trying to do in the House?

A. The Long bill was introduced in the House and we read the Long bill that prescribed that an oil well should not produce more than five hundred feet of gas to the barrel of oil. Now the matter of gas-oil ratio is one I discovered after a great many years in the oil field. I studied the matter, and it was a theory then, and it is practiced now. When the bill was proposed I came up and

addressed the Oil and Gas Committee of the House in favor of conservation, but against that provision of the bill which was improper, and Mr. Clarence Wharton also addressed the committee, and Mr. Trickey of Fort Worth. The committee then voted that they would not recommend the bill to be passed but they asked would we aid in writing a conservation bill, to which Mr. Wharton agreed. He did not aid however. I got in touch with Mr. Dan Moran at Ponca City, telling him that Mr. Wharton had promised to aid but he did not do it. I went to the committee and I said I don't represent the oil industry of Texas, but if you will call in the oil men and their representatives and attorneys I am sure they will help you. They appointed a sub-committee and the sub-committee decided they could not issue a call, and they decided to go and see the Governor. They invited me to go and see the Governor with them, and the chairman explained the matter to the Governor and he said he would be glad to issue the call to aid the committee in writing the legislation. There was no public call issued at all, however, but a week later the chairman of the House committee called me to meet them at the Driskill Hotel at noon, they were going to write this law—. Well, I went down there and the Oil and Gas Committee was on the floor of the Driskill Hotel and I went upstairs with them and went into one of the dining rooms on the second floor of the Driskill Hotel to a luncheon to consider that law. Well, in the dining room was the Governor and the Railroad Commission and Mr. Bob Penn of the Central Proration Committee, and three Humble employees, three or four Humble lawyers and a Standard Oil attorney from California, and not one independent, to write this law. I explained to the committee, certainly I couldn't agree to any measure prepared under those circumstances.

Q. Were you going to object to it just because those people were there, you didn't offer any suggestion as to what the law ought to be, and see whether they would agree with you, you just quit?

A. No, I didn't quit, I told them I couldn't agree to any law because I knew they wanted a demand law,

a law fixing supply and demand. So Mr. Hardwick addressed the committee, he explained the gas-oil ratio very beautifully, he was a very skillful lawyer to handle a subject like that. When he got through we all agreed that was correct of course. We asked him how he would do it, and he said he would unitize the oil fields. He would take my property away from me and give it to somebody else to run. That we knew was coming and that will be presented in this Legislature before you are through with it.

Q. What was the result of that meeting?

A. After Mr. Hardwick finished I asked him how he would go about achieving the efficient production of oil with that oil-gas ratio, and he said through unitization. Well, that broke up the meeting that day. The next day we were invited down there again by Mr. Penn this time. We went down and Mr. Hardwick explained the gas-oil ratio again.

Q. Who was there then?

A. The first parties who were there the first day, Mr. Pratt, Mr. Corliss, Mr. Hines Baker, I think Mr. Church, and Mr. Hardwick.

Q. Was the House committee there?

A. Yes, sir.

Q. The sub-committee or the Oil and Gas Committee?

A. All of the main committee, twenty-one. The next day I asked for Dr. Bibee, of the University and his assistant to be there, and Mr. Cranfill, and Mr. Hardwick explained the gas ratio, and this time he said we would have to prorate to accomplish that, and that broke up the meeting, and they asked for another meeting. The sub-committee got ahold of Mr. Penn and told him to take his proration committee and the Humble lawyers and go home, and that ended our effort to get a conservation bill. It is my opinion that if the Governor had called in the oil industry and not limited it to the Standard Oil Company you would have had an adequate conservation bill in the winter time and you would not have had to hold this special session.

Q. Do you know whether the Governor did not invite anybody else?

A. I am sure that anybody that was invited to help on a bill like that would have come. The Governor was asked to issue a proclamation to the oil industry of Texas, that the Legislature of the House would like to have aid in writing a conservation law. The Governor agreed to issue a call, but he did not issue it.

Q. Were you notified to be there?

A. Not by the Governor. The Chairman of the House committee asked me to come to the meeting. That was the only way I was notified.

Q. You say the committee asked the Governor to do that?

A. The sub-committee.

Q. The sub-committee asked the Governor to make that?

A. Yes, sir.

Q. Do you know whom the sub-committee invited?

A. They said they would like to have the oil industry of Texas, big and little alike; and the Governor said he would be glad to issue the call, but he never did issue it.

Q. On what grounds did a committee of the House decline themselves to call in the oil men and take that to the Governor for him to call in, when the committee of the House was the one to consider this matter and write a bill?

A. That is what happened, and I don't know why it happened, but that is the way it happened. I was not a member of the committee; but the committee called me and asked me to go to the Governor when they went to him to ask him to issue the call.

Q. That was the end of any attempt in March to have anything introduced in the House?

A. In the House a bill was introduced after that, which was the modified Long bill.

Q. As I understand your testimony, you think the law of supply and demand should be left alone and allowed to control the oil situation?

A. Well, it will control it, whether you like it or not; it is controlling it now.

Q. Was it the law of supply and demand that put the price down in East Texas? You say the law of supply and demand controls the oil business. Now, it is in evidence that the price of oil has gone down from

67 to 37 cents, and still lower, and your contention is the law of supply and demand regulates it. Was it the law of supply and demand that put the price down, and continually keeps it down, and is keeping it down in East Texas?

A. East Texas was put very much lower than other places; it is an arbitrary differentiation against East Texas.

Q. How do you reconcile that condition with the statement that the law of supply and demand will regulate the condition, despite any law we might pass here?

A. These low prices of oil caused the producers in Kansas and many in Oklahoma, and many in West Texas to shut their wells down, because they could not pump the oil out for ten or fifteen cents a barrel; and the moment they did that the refineries raised the price to 40 cents. That is the law of supply and demand working there.

Q. Why don't the law of supply and demand in East Texas raise that price to an equal level with this other, if the law of supply and demand does ultimately control? You say in these other fields that the law of supply and demand controls there, but from your testimony here, I don't see that it does in East Texas.

A. I endeavored to show that the law of supply and demand has worked up to the time this Legislature was asked to fix the supply.

Q. The law of supply and demand caused East Texas oil to go down to ten cents?

A. Yes, sir.

Q. And this law of supply and demand worked up to the time of the call by the Governor?

A. No; I don't mean the call; but I mean, when this Legislature met first this year. One of the first bills that came in was this Long bill, which is a demand bill, and from that time on we have had troubles in the oil business, and prices have been arbitrarily fixed to below the cost of production.

Q. Arbitrarily fixed by the major companies?

A. No question about it.

Q. How?

A. Refusal to buy, that puts oil down.

Q. As I understand from statements made on the stand, operators

and producers over there went out and made contracts by which they agreed to sell large quantities of oil at prices way below the then posted price in East Texas. Did that have anything to do with the prices being lowered? I understood Mr. Holmes to say they would not pay a higher price than the operator were offering their oil to others for. Now, did the making of these large contracts to sell below the posted price have anything to do with reduction of prices over there?

A. You have the cart before the horse.

Q. All right; straighten me out then.

A. If they don't buy it, it will go down. If they won't buy his oil, what is the producer going to do, but sell his oil at lower prices?

Q. Well, posted prices still existed as posted by the major companies?

A. If you had an oil well and you could not get your oil run by the major companies, and somebody else offered you five or ten cents less, I believe you would sell your oil, wouldn't you?

Q. I don't know. I am asking you. I want the facts over there.

A. They wouldn't buy the oil, so they sold it somewhere else.

Q. And the major companies have bought all the oil, if they turned it all loose?

A. All the oil run over there has been sold.

Q. Wasn't it sold because put on the market at a price below the market price, just like when people bargain, or like a store about to go bankrupt, they put prices below the real value of the goods to sell them. Wasn't that what happened?

A. No, sir; as I said before, the Humble told them they would have to unitize; then they told them they would have to prorate; then they refused to buy.

Q. When the Humble refused to buy in East Texas, and there was oil taken out of storage, didn't they have to buy somewhere else, then, if they didn't buy in East Texas?

A. No; they take it out of storage. They have cut the amount in storage tremendously in the last few years.

Q. Wasn't that oil in storage bought at a higher price than it could have been bought in East

Texas. Weren't they using higher priced oil from storage than they could have bought it for in East Texas?

A. We don't question that at all. They could have bought cheaper oil in East Texas, and they are buying it now.

Q. Yes.

A. We don't question their power to fix the price of oil.

Q. When they were not buying oil over there, why wasn't there a greater demand in other fields, if the law of supply and demand regulates this. When they arbitrarily cut this off from one field, why wouldn't the price in other fields have gone up, when they practically by their own actions eliminate the East Texas field from their purchases?

A. They had never made any purchases over there, so it did not affect the price elsewhere. They didn't have any pipe lines over there, and said they were not going to build any.

Q. What made the other fields go down?

A. The Standard Oil Company can control the price of oil. All they have to do is to say it is ten cents a barrel and that is what it is.

Q. Isn't it your position that the law of supply and demand will regulate it? Aren't you wrong if the Standard fixes the prices? You take the position that the law of supply and demand will fix the price. Now, you tell me that the Standard Oil Company fixes the price. I want to know which one it is.

A. As I was explaining before, we have now a large amount of potential production. It is not actual, but potential. That has depressed the market. That is the supply part depressing the market. Now, the question of these prices is a very complicated matter.

Q. I am sure of that.

A. Now, the posted price of oil produced by General Wolter's Company, The Texas Company, that doesn't mean anything to them. The cost is all they are concerned with—how much it costs to produce it. But the independent is concerned with what the posted price is, because he sells to them. Now, under the ordinary term of supply and demand, if we have a large potential of oil in sight that can be produced,

and through some slip it is produced, then we have the supply above the ground. So long as you hold that oil back in the ground, the tendency is for prices to decline, and they did decline generally. Now, when East Texas comes in, the large quantity of oil in sight undoubtedly depressed the market. No question about that. But the actual amount of oil being sold in East Texas, and the actual amount being produced in the whole United States is not such as to depress the market down to ten cents, because we are producing 450,000 barrels less than in 1929, our biggest year. Does that explain it?

Q. Do you believe like some of the operators, that the best thing to do is to let them produce all they can over there, so the price will go?

A. No; we have to regard conservation. No one subscribes to any doctrine that would throw conservation to the wind, and no selfish interest even would dictate such a thing. If you have no regard for people and the state, then your own interests would dictate conservation. That is common ground for everybody.

Q. Do you mean by conservation, holding it back until the price is better?

A. No.

Q. You mean prevention of physical waste?

A. Yes, sir.

Q. Then, if a man sold it for ten cents a barrel, and it is his oil, there is no waste there, is it?

A. Not any.

Q. Some of those operators take the position that if they will just turn those wells loose and let them produce at ten cents a barrel, and sell all of that, and get this potential out of the way that is depressing the market, the whole situation will clear up itself.

A. There is no question but it would if that would occur, because low priced oil is stimulating consumption enormously. A great many plants that formerly handled gas are now using fuel oil, and it has displaced coal in a great many places; and there is no question but that low prices do stimulate consumption of both crude oil, which is competitive with fuel oil, and gasoline, which is a product of that, and that is what occurs in all basic industries.



Q. Assuming that is the correct theory of it, what regulation or what law could we pass, if any, that would help? Assume you let any man sell it as cheap as he wanted to, as long as he could get a market for it, but not producing any physical waste?

A. There is one thing—that is, the gas—

Q. I am talking about, and not gas.

A. Could I describe what happened at Pettus?

Q. Yes.

A. We had some leases at Pettus, and I joined in the drilling of the discovery well there. It comprised some 17,000 acres in the Rhea Ranch, and the field went off the ranch a little into the town site, and they blew off the gas, and that field is pumping now. The gas-oil ratio is up to 30,000 feet. They blew the gas out there to get a little oil. That is downright criminal waste.

Q. That is physical waste of gas?

A. Yes, sir; and we will not recover as much eventually as we would have if that gas had not been wasted. It cuts down our ultimate recovery to a large extent. We know the wells have quit flowing.

Q. Well, what is your remedy?

A. Prohibit excessive waste. It is prohibited now.

Q. I thought when Senator Woodward was asking you some questions, you said that was too far in the future to tell what the ultimate recovery would be, and that would be depressing on the operating?

A. I repeat that.

Q. Well, now, I understand here, in illustrating with this field, you say that is what should be done. Maybe I misunderstood you about that?

A. I objected to that clause on account of its being so indefinite. It does not throw about conservation these rules that would really conserve. It throws about the oil business a good deal of harrassment, with a clause like that that you can interpret. What would you say was the total production?

Q. How would you treat one of those fields, unless you theoretically arrive at what would be the ultimate recovery, then work from that theoretical amount? What would be your practical way of handling that?

A. To prohibit the undue waste of gas; that is a very simple term.

We know if we don't waste the gas, we will recover more oil; we don't know how much; but we know in a general way.

Q. Well, how would you fix that—what would be your line of demarkation between the rightful use—(question interrupted.)

The Chairman: Senator, wait a minute. There is too much conversation going on in the Senate Chamber, members. Let's be a little more quiet and give more attention to the hearing. We want to hear what is taking place.

Q. That is what I am trying to get at with reference to this bill here and that definition. What is your theory of the right definition that a commission handling this matter would be guided by?

A. They would be guided very much like—if you are a lawyer, you know just about what the law is, you know what Mr. Blackstone said and what the decisions of the court are.

Q. Well, we don't know that until the courts have the final say.

A. Well, you know what the decisions are that are already decided.

Q. Yes, of course.

A. Well, you can go about it pretty well. If that is left to an administrative board of trained, experienced men you won't have any trouble with the administration of the law and neither would we. You are not going to be able to lay down on a new science, which has been applied only three years, in fixing rules that will apply to all fields.

Q. Well, did you hear Mr. Foran here the other day with his charts and maps?

A. Part of it.

Q. Do you agree with the theory he advanced as to the waste that would occur, leaving parts in certain formations and leaving small pools of oil that we never can recover by withdrawing from around it.

A. No, sir; I don't agree with him. Coning is largely a matter of theory.

Q. Well, you would not think a man like Foran would be the proper advisor to the commission in fixing this line of demarkation between how much gas you could use and how much you could not use in recovering oil?

A. I do not, because Mr. Foran is not a practical producer. He is a trained man in his line. He has

never drilled a well of his own, and until he does that and has that responsibility he does not know what it means. The commercial phases of my business are very closely related to the development of our natural resources. We have enormous amounts of lignite, but you can't recover it at any profit today. We have enormous quantities of oil and the value of them is economic.

Q. I want to ask you this one question. What would be your guide for the commission to select the men that are to advise them—these experts? You say Mr. Foran, who has a high reputation, is wrong; he would not be a good man for that position because his theories are not correct. Now, in order to carry out such a law, if we would pass the kind of bill that you think ought to be passed, how do we have any assurance that the commission that will handle it won't get the wrong kind of men?

A. Well, as I said before, you have got to combine experience with training in any event.

Q. Yes, sir.

A. Like you would anything else, medicine or law or anything; you have to have some experience to go with your training, some actual, hard experience. A qualification that any man furnishing information to the commission on which to base its action—he should have both adequate training and experience anywhere from three to ten years, depending upon the responsibility he assumes in his position. You certainly cannot take a man untrained in it and do it and say what should be done, and then you might train a man forever and until he had some practical experience he could not tell you what should be done, because engineering is supposed to be an exact science, but it is not. You can take an engineer to measure a bridge and every time he measured it it would be a little different. You compromise those things in engineering always.

Q. One other question. Do you think the Legislature should attempt to give any guides by which these men should do it or leave it entirely to these experts with their own knowledge without any specific directions being given in the law.

A. No, sir; I don't think you ought to delegate that to anybody.

You should lay down certain rules under which they can act and that should be the limit of their authority and they should be required to go that far, too; because the making of this law outside of the Legislature is not so good; we don't know what it is going to be tomorrow. The commission or whoever is employed by the present commission should have certain rules circumscribing and prescribing their powers, so they must do what is equal and fair to all alike, and under those conditions, if whatever law you pass is administered fairly and equally to all alike, we won't care what it is. It is unequal administration that brings us here.

Q. Well, how is the Legislature going to protect you against unequal administration when we pass the law and it is out of our hands and in the hands of the men appointed by that commission?

A. As I said before, they should circumscribe and prescribe their actions and not give unlimited authority like Senator Woodward's bill; that gives unlimited authority. I would compliment Senator Woodward on writing a bill to give such unlimited authority under the police power over another man's property—that is the objection to it.

Senator Martin: Mr. Chairman.

The Chairman: Senator Martin.

Senator Martin: I want to ask you about this American Petroleum Institute mentioned in your testimony. Mr. Pennington, is that magazine sold ordinarily on magazine stands?

A. No, sir; it is only by subscription by the year from the Institute.

Q. Now, you mentioned a man by the name of John B. West, who it seems presented an article on "Unitization." Who is John B. West?

A. Let me see. I believe he is in the legal department. I am not so familiar with the legal department.

Q. Well, they say it is the Prairie Oil and Gas Company, but I did not know what position he had.

A. Most likely in the legal department.

Q. Well, I notice another man mentioned here, a man named Ames.

A. He is vice president of The Texas Company.

Q. Vice President of The Texas Company?

A. Mr. Ames, yes, sir.

Q. This Petroleum Institute, how often is that published?

A. That is published quarterly, that particular one. We could get one every week—that is, we subscribe to it; I am not a member.

Q. Now, I want to ask you a few questions about the Woodward bill here. You testified a moment ago with reference to the receivership features of that bill. I believe you say you are not a lawyer.

A. No, sir.

Q. You never knew of a receivership being resorted to as a punitive method of punishment, have you?

A. No, except in criminal cases.

Q. Except in criminal cases?

A. Yes, sir; anti-trust proceedings and things like that.

Q. Ordinarily that is resorted to for the purpose of protecting the property that is placed in the hands of the receiver for the owner?

A. Yes.

Q. And if a corporation—a corporation or individuals are violating the anti-trust laws, it is proper for the court to ask for a receiver to take over their property?

A. Yes, sir.

Q. There is another feature that provides that all suits shall be brought in the City of Austin. What effect would that have on the independent operators in this State when it is necessary to bring quite a few witnesses here?

A. Most likely in many cases a judgment would be rendered against him by default.

Q. He would not be able to get his witnesses and appear here at the State capital, and take care of them?

A. No, sir.

Q. Do they keep attorneys employed that stay here in the capital, in the capital city?

A. No, sir. There have been very few—in all these proration hearings the independents haven't attended the hearings.

Q. I believe you testified in answer to Mr. Pollard that if the Railroad Commission had some laws, or the laws now passed strengthened to some extent, it would be sufficient to take care of the condition that now exists?

A. Not only the law strengthened, but there is no machinery for enforcement. These laws are not going to put on their hat and shoes and enforce themselves. Without the

proper enforcement machinery, and the law is enforced intelligently, I don't know whether it is ever going to be enforced or not.

Q. Mr. Pennington, I have read through that bill hurriedly recently. Is there not a provision in that bill that allows a recovery—or a violation of the orders of the rulings of the commission as a basis for recovery in civil actions between parties that claim they are aggrieved,—that in addition to the common law right which they may have?

A. Yes, sir.

Q. And also a condition in there which warrants bonds which might be made so excessive that an independent operator could not make them, and if he did make them, it would limit his credit to such an extent that he would have to cease to operate?

A. So severe that Draco himself did not write a law so severe as that with reference to property.

Q. One other question then, please. Is there or not any provision in this bill that takes care of the royalty owners in any matter of litigation that might come up between the lease holders?

A. The royalty owners' interest in that is completely disregarded.

Q. Disregarded entirely?

A. Yes, sir. And he is a landlord too.

Q. So far as this bill is concerned, he is totally disregarded, isn't he?

A. His interests are bounced back and forth at will it seems to me. Another thing about the bill,—if the royalty owner has any recourse he would have it against the producer and no one else.

Q. Against the producer and no one else?

A. Yes, sir.

Q. In other words, if a party had a lease upon his land and he is enjoined by some other company, and in the injunction proceedings the royalty holder is damaged, he would have to proceed against the party who had the lease and can't proceed against the party who really caused his damage?

A. Yes, sir.

Q. Under this bill here?

A. That is the way I understand it, yes, sir. It lays it liable to so many penalties that I would rather be in some other sort of business al-

though I don't know anything about anything else.

Q. With reference to royalties. There is no provision in the bill by the terms of which the royalty owner should go ahead and receive his compensation or his pro rata part while the litigation is going on, if it lasts six months, a year, or ten years?

A. He is tied up tight.

Q. He signs his rights away, as we might express it in barnyard fashion, until the dogs quit fighting?

A. Yes, sir.

Q. And then he comes into his part?

A. Yes, sir.

Q. Do you know of any instance in which the royalty owner has been paid or loaned money in advance on his royalty?

A. Well, not very much; sometimes, yes, sir. Not very much.

Q. Not very much?

A. No, sir.

Q. Do you remember one that was brought out in the House last Saturday?

A. I read it in the paper.

Q. What company was that that paid that royalty, if you remember?

A. I think they said the Humble Oil & Refining Company advanced that royalty.

Q. For what reason and on what land?

A. I understand it was down here at Moss Bluff. It is supposed to be a salt dome, but there is no production on the property, I understand.

Q. That is in Chambers County?

A. Yes, sir, Moss Bluff.

Q. Now then, that was a loan they said of three hundred thousand dollars in 1930?

A. Yes, sir.

A. Do you happen to know directly or indirectly of any other loan at any time during the year 1931 on the same property between the same parties, or others?

A. I thought the testimony Saturday was that there had been four hundred thousand dollars on that same property.

Q. Four hundred thousand dollars on the same property—you thought what?

A. I understood on that same property. There was an additional hundred thousand dollars. Wasn't that right?

Q. Probably so, but that is speaking of the year 1930, wasn't it?

A. Yes, sir.

Q. Do you know of any such thing in the year 1931, either directly or indirectly, Mr. Pennington?

A. Well, I am not prepared, Senator—

Q. (Interrupting) This is an inquisitorial body and we can take hearsay, and that is the only way we can arrive at material facts, take hearsay and run it down. Can you give us some information of such transactions during the year 1931.

A. You mean where the Humble has been the means of allowing the Governor to have some money?

Q. Yes, sir, or anybody else?

A. Well, I have understood from Houston that there has been some loan negotiations on the Houston Post Dispatch—

Q. All right.

A. —with which one bank in Houston has been concerned in which some of the Humble officers are directors, the South Texas Commercial National Bank. That is the limit of my knowledge of it.

Q. And loaned how much, and to whom?

A. I understood it was six hundred thousand dollars made to Governor Sterling.

Q. To Governor Sterling?

A. Yes, sir.

Q. And that has been during the year 1931?

A. Yes, sir.

Q. That was advance payment on royalty, and they took a lien—

A. No, sir, that was on the Post-Dispatch. That loan was on the Post-Dispatch.

Q. The Post-Dispatch Building, or the Post-Dispatch?

A. The paper.

Q. The paper?

A. Yes, sir.

Q. Then that would be the Post-Dispatch instead of the building?

A. Yes, sir, that is my understanding. But I haven't inquired into it.

Q. Mr. Pennington, if you don't mind discussing it, would you give us the source of your information?

A. I have heard it discussed so many times I don't remember just where it did come from.

Q. Could you at this time suggest some person that we might get here who would be able to give us the details of that transaction?

A. I should think Mr. Farish could, Mr. W. S. Farish.

Q. He is the man who testified with reference to the 1930 transaction?

A. Yes, sir.

Q. He wasn't asked about the transaction in 1931, was he?

A. No, sir.

Q. Do you know of any other such transaction that has occurred, Mr. Pennington?

A. No, sir.

Q. Then that is all.

Questions by Senator Woodward.

Q. I don't catch exactly what it was that you said you had heard about the Governor's transactions about loans.

A. Senator, I have heard this so persistently,—I have no desire whatever—I guess it is on authentic information what I believe to be authentic, that the Governor has borrowed six hundred thousand dollars this year on the Post-Dispatch Building.

Q. From whom?

A. The loan consisted of a bond issue on that property and the pool was taken by the South Texas Commercial National Bank, the Mercantile National Bank of Dallas, and another bank which I have forgotten, and that there was some guarantee made in connection with the loan. That is the extent of my information.

Q. Who gave you that information?

A. I have forgotten who; it has been discussed so many times in my presence that I couldn't tell you who.

Q. Couldn't you name one person?

A. That has been discussed all this year. I don't know when it was brought up first.

Q. Did they claim that the Humble Oil Company, or any other oil company, had guaranteed the payment, or was connected with or interested in the loan?

A. No, sir. The bank that took part of those bonds is officered by some Humble officers.

Senator Martin: What is that?

A. You understand, I haven't looked over any of these papers, but this has been discussed and I really do not like to discuss rumors, you understand, but my understanding of this loan was it was a loan of six hundred thousand dollars, and two hundred thousand dollars was taken by the South Texas Commercial

National Bank of which some of the Humble officers are directors, and there was some guarantee made in connection with it.

Q. What guarantee?

A. That it would be paid.

Q. Who guaranteed it?

A. I don't know; that is the limit of my information on it.

Q. Has that been discussed since Mr. Farish's testimony in the House to the effect that the Humble Oil Company had not made any loans to Mr. Sterling, that they didn't hold any lien or security on any of his property, made just two or three days ago?

A. No, sir, not so far as I know.

Q. Did you know Mr. Farish had made that statement under oath in the House?

A. No, sir, I wasn't there. All I read was in the paper, what Mr. Farish testified, and I wasn't present. I left Saturday and went home and got back this morning about ten o'clock.

Q. Then the matter you are testifying about is just hotel lobby gossip, or street gossip, or rumors?

A. And business office gossip.

Q. And in business offices?

A. Yes, sir. I have no information whatever that would verify it.

Q. Now, Mr. Pennington, you understand what is meant by advance royalties, do you not?

A. Yes, sir.

Q. Have you ever made a deal in which you were paid advance royalties?

A. I have got money on royalties, but I have never received money,—what you would call advance royalties. I have borrowed some money on royalties.

Q. When you borrowed money on advance royalty, or on royalty, do you mean you got the money from the person holding the lease?

A. No, sir, I got it from the one buying the oil, whoever it is.

Q. Did you ever make a deal with the parties operating the lease?

A. No, sir.

Q. Have you ever known of that being done?

A. If—

Q. Not if. Have you ever heard of it being done?

A. Senator, you know these trades are just about all colors of the rainbow. Now, where the operator of the lease is also the buyer of

the oil, there have been many cases like that.

Q. In those instances where they advance the royalty it is estimated as to what the production will be?

A. There is bound to be some production or there would not be an advance on royalty.

Q. If the man who advances that money on the faith of getting oil does not get the oil, then he is just out, isn't that a fact?

A. The man who advances the money?

Q. Yes, sir.

A. It depends on the contract. Usually advanced royalty is paid out on oil as and when produced, but if you say "if, as and when produced," the one who advances the money simply lose the money.

Q. Now then, if a man is operating a lease under which he has reason to believe or knows there is oil, and in order to be given time within which to further develop the property, the parties agree that the royalty will amount to approximately so much during the period, and the man operating the lease and taking the oil advances the money to the owner of the lease, then, under those circumstances if the operator doesn't get his oil he just made a bad guess, hasn't he?

A. Well, I wouldn't say he had made a bad guess. He might have made a bad contract.

Q. Well, he wouldn't get anything because he didn't get any oil?

A. If he made that kind of contract he wouldn't get it.

Q. Do you know of any other contract like that having been made?

A. Not where royalty is advanced. It is usually advanced on a promissory note, payable out of the oil and if you do not pay it out of the oil then you have to pay the note anyway.

Q. Did you read Mr. Farish's testimony wherein he listed some hundred or hundred and fifty instances of various parties where they had advanced royalties?

A. No, sir, I have not read it. It is customary to advance royalties, but when you get an advance on royalty if the property does not pay the loan back then the borrower must be paid anyway.

Q. Which would be according to the contract if they made that kind of contract?

A. Yes, sir, that is the kind of contract that is usually made.

Q. If they don't make that kind of contract but the producer was willing to take his chances and pay a man in advance for the royalties then the man wouldn't be obligated to pay it back?

A. No, sir.

Q. So, that would depend upon the kind of contract they made?

A. In that case, yes.

#### Questions by Senator Martin.

Q. In the event they were borrowing money that way and it was to be paid back in the form of royalty then from the individual who got the money there would be a note, wouldn't there?

A. Well, I have never borrowed any money on advanced royalties but what it was bound to be paid back whether or no.

Q. Did you execute notes when you borrowed money on advanced royalties?

A. Yes, sir, I have loaned money on advanced royalties when I operated a refinery.

Q. And took the notes from the party to whom you loaned the money?

A. Yes, sir, and had the title examined and approved.

Q. And took a lien on the royalty?

A. Not on the land but on the mineral part of the land.

Q. On the mineral part of the royalty?

A. Yes, sir.

Q. And when you borrowed money they took a lien from you?

A. Oh, yes.

Q. Those liens are always regarded?

A. Yes, sir.

Q. Back to this recent transaction you mentioned, you said there were bonds placed on the Post-Dispatch building to the amount of six hundred thousand dollars?

A. Yes, sir.

Q. What bank took care of two hundred thousand dollars of that?

A. I understand it was the South Texas Commercial National Bank.

Q. And the officers of the South Texas Commercial National Bank are officers and directors of the Humble Oil and Refining Company?

A. Some of them.

Q. How about the Merchantile Bank in Dallas, does the condition prevail there?

A. I am not familiar with that bank.

Senator Martin: That is all.

Senator Purl: There is nothing unusual in a man going to a bank and borrowing money, is there?

A. No.

Q. What is to be implied by your testimony?

A. I didn't offer the testimony. I didn't offer it, I would rather not testify about it. Is that clear.

Senator Purl: Yes.

The Chairman: Are there any further questions of Mr. Pennington. If not I want to express to Mr. Pennington the appreciation of the committee in the manner in which he has presented his testimony.

Gentlemen of the committee, I wish to state there are two more witnesses here, Mr. Rollin of the Shell Oil Company, and Mr. Duffie, who wished to come before the committee. I do not wish to dictate the matter of putting on the testimony but if it is possible I would like to get rid of these gentlemen this afternoon. If there is not any objection I will call Mr. Duffie.

Mr. W. E. Duffie was sworn by the chairman.

The Chairman: Your address is what, Mr. Duffie?

A. Fort Worth, Texas.

The Chairman: With whom are you connected?

A. With the Cordova Union Oil Company.

Senator Pollard: That is a small corporation?

A. Yes, sir.

Q. How much capital stock?

A. I couldn't answer that question, because I am not interested in the Company except that I am associated with them in this small tract in Rusk County.

Q. How many acres do you have there?

A. Thirty-six acres. The history of this particular tract of land in which I am interested with the Cordova Union Oil Company, is located in the Kilgore area. In this particular area we were the third operating unit to complete a well in that district, after the discovery well of Bateman on the Crimm. We finished our well and completed it on

March the 3rd of this year and for eleven days we were unable to obtain any pipeline connection at all. We firmly believe in proration and equal takings, withdrawing of the oil, and therefore we felt that the Humble Oil Company was endeavoring or some of the larger companies were advocating proration, and we went to them and asked them to give us a connection for this particular thirty-six acres of ours. We were unable to get a connection from any of the larger companies, of course, at that time, early in the game, there were some that were not in position to give us a connection, so therefore we were forced to protect ourselves and protect the land owner, to go out and try to find a market for this oil. We did find a market, we made a connection with the Southern Oil and Refining Company, which is a small corporation, I think from Shreveport. They laid a line from what is known as the Read switch to our land, a four inch line, and started taking our oil. They paid us thirty-five cents a barrel for this oil up until the first day of April, when they said they were forced to buy other offering of cheaper oil that they were forced to reduce our price to twenty-five cents. We sold them then during the month of April, that is up to the 19th of April, we continued to run the oil to them for twenty-five cents a barrel. Then at that time the Luling Oil Company, the directors of whom I did not know, they had a ten acre tract west of us, in between was the Magnolia fifty acre tract, and they offered to the Southern Oil and Refining Company a connection at nineteen cents a barrel, so we refused. We thought it was not fair to us or the land owners or any one else to accept a price like that for that oil, so we refused to sell them any more oil. About the time they wanted to reduce the price to nineteen cents the Railroad Commission issued an order and allowable for East Texas, it was not in effect, it was to go in effect on the 1st day of May. We got in touch with the Humble Company again and on the 1st day of May they gave us a connection under the ratable taking, or under the allowable, and we have been running oil to them ever since, from this particular thirty-six acre tract. We have

abided by proration all the way through, and with the figures I hope to give you I can show you that we,—that this is a specific case, that we have been injured and injured to the extent that we will never be able to retrieve or recover the oil they have recovered from these seven offset wells.

Now during the eleven days before we had a connection after the completion of the well we solicited every company that we thought it was possible to give us the connection. The Humble at that time told us they had trouble of their own, that they could not,—that they were producing all the oil from the Crimm, and of course, at that time they did not have a major trunk line, they simply had a line to the loading rack, and I imagine that is true, that they were unable to give us any space in that line, or any space at the loading rack. We solicited every one of the fields, or the ones from which I thought we should have had some assistance at that time. One of the companies from whom I thought we should have had some assistance was the Houston Oil Company. They crossed our leads with their line and repeatedly we made every effort to have them give us a connection but we got no satisfaction. A short time later the Atlas Pipe Line Company laid their line from Longview from a loading rack into the Alvery thirty-five acres offsetting us, and took that oil from the Alvery. I understand Mr. Alvery was one of the organizers of the Atlas Pipe Line Company.

Now to get to the figures I would like to present to you. Included in the amount of acreage that we are directly interested in, exclusively of the Humble Oil and Refining Company which offset us on the North with a large lease of some six hundred and twenty acres, I leave them out for the simple reason that they directly offset us,—I was unable or at least did not procure the figures to check against what they have actually produced and what their allowable was since the first day of May so I am going to leave their lease out at the present time. We are offset by seven different leases, our thirty-six acres being in the heart of this circular area from which the oil has been run. On the northeast the Houston Oil Company, on the Jones lease, has ten acres; also on the northeast,

J. W. Alvery has twenty acres; on our east the British American with eighty-five acres; on the south and southeast the Burton and Drilling Company with twenty acres; on the south Cranfill and Reynolds with ten acres; on the southwest Markham and Dunn, twenty-five acres; and on the west the Magnolia Petroleum Company with seventy acres. We have from this thirty-six acres produced up until the 15th day of July, one hundred and seventy-three thousand, three hundred and four barrels of oil under proration. Before proration we produced eighty-eight thousand two hundred and four barrels, and since proration, which we have abided, as a matter of fact we have never quite gotten our allowable, we have produced about eighty-four thousand barrels of oil. That is from this thirty-six acres, six wells. Going to Alvery, with eighty acres he has four wells,—understand our wells come in practically at the same time as his; he has run a total from, he has four wells,—understand our wells come in practically at the same time his did. He has run a total from this twenty acres of five hundred and thirty seven thousand eight hundred and eleven barrels, that is up to the same date, July 16th. Now as to the allowable figures for that month, the month of May, I went to Mr. Parker's office but I was unable to find the allowable, he didn't have a copy of it or the two copies that were sent out, one from May 1st to May 15th, and May 16th, to the last day of May, but anyway since June the 18th, all they have exceed up to July 16th, he has exceeded his allowable by two hundred thousand, nine hundred and thirty-five barrels. The Houston Oil Company, on the Jones ten-acre lease, which I mentioned as offsetting us to the northeast has produced and run a total of seven hundred and sixty-eight thousand, three hundred and twenty-six barrels of oil from ten acres, three wells. He has recovered the largest part of that oil before the proration order took into the effect on the 1st of May, however he has not quite abided by proration, or his allowable, he has exceeded it by nine thousand ninety-two barrels. The British American, which offsets us on the twenty-five acres, four wells,—and by the way, their completion did not come in until April,—they have produced a



total of two hundred and sixty nine thousand three and eighty barrels from this twenty-five acres, but they only had, you might say, with those four wells, they only had about fifteen days run in April before proration came into effect, that is before the order was put into effect. But since June 18th they have exceeded their allowable by 75,500 barrels. The Burton Drilling Company's 20-acre tract offsetting us on the southeast has produced 173,244 barrels. Their first well was completed the last of March. Since proration—since June 18th, they have exceeded their allowable by 37,610 barrels. The Cranfill & Reynolds two wells have produced 122,879 barrels, and have exceeded their proration allowable from the date mentioned by 42,938 barrels. Markham & Dunham, with a 25-acre tract on the south and southwest, produced 267,210 barrels, and have exceeded their proration allowable by 117,152 barrels. The Magnolia, with a 50-acre lease on the west, has produced 511,320 barrels, and has exceeded its proration allowable by 18,179 barrels. That brings a total recovery—

Senator Pollard: How about the Humble offset?

A. The Humble offset, I cannot give you the allowable on that, but they have produced up until July 16th from the Crimm lease of six hundred some odd acres 1,777,443 barrels.

Senator Pollard: How many wells?

A. That was from the first information I got. When we got it by the week that was twenty wells on June 3rd. On July 16th there were twenty-seven wells, which have been credited with 1,777,443 barrels. Summing up the figures I have given, from this 196 acres, we arrive at a total of 2,823,536 barrels from that small area of 196 acres. And we figure we should have had, or it was coming to us, one-thirty-sixth of that. Figuring the recovery per acre, we recovered up to date 4811 barrels; J. B. Allday 26,890 barrels to the acre; Edward Jones and Houston Oil Company 76,832 barrels to the acre; the British American, 10,175 barrels to the acre; the Burton Drilling Company, 8662 barrels to the acre; Cranfill & Reynolds, 12,287 barrels to the acre; Markham & Dunham, 10,688 barrels; and the Magnolia Petroleum Company, 10,226 barrels to the acre. That is an

average recovery, if everyone had gotten what was coming to them, of 14,404 barrels to the acre; and the first well in that area was completed by Edward Jones on the 19th of February.

Questions by Senator Woodward.

Q. When you made a request for a connection with the Humble pipe line, how far was their nearest connection from you—that is, their nearest line?

A. Their nearest gathering line—those are 150 foot locations—would throw them 300 feet—more than that; it would be four or five hundred feet.

Q. Now, that is their own line?

A. Yes, sir.

Q. Did you offer to extend your line to them?

A. That has never been the custom.

Q. Did you offer to extend your line to them?

A. No, sir; I don't believe we did.

Q. Did the others who were delivering oil to them extend their lines to them?

A. At that time the Humble was taking no oil from any outsider other than what they produced themselves.

Q. When they finally did make connection, did the owners of the wells extend their lines to the Humble's lines, or did the Humble extend their lines over to them?

A. I can only answer for ourselves; but they extended to us their lines to our tanks.

Q. You don't know about the others?

A. No, sir; I don't.

Q. At the time they declined to take your oil, there was no connection between your well and their pipe line?

A. No, sir.

Q. Did they commence taking oil from your neighbors—these parties you mention, prior to the time they commenced taking your oil?

A. No, sir.

Q. They commenced taking your oil prior to the time they took from them?

A. Yes, sir. As a matter of fact, I don't think the Humble is taking any oil from my neighbors.

Q. But they are taking from you?

Q. Now, the complaint you have—all of which may be well founded—they would not take your oil when you first wanted them to take your oil?

A. That is correct.

Q. How long did they delay you before taking your oil?

A. We asked them for a connection along the third day of March, and the Humble would not give us a connection, and told us they would not buy any outside oil until the Railroad Commission had issued a proration order.

Q. At that time you were not under proration?

A. No, sir.

Q. You have observed the proration orders throughout?

A. We have, religiously.

Q. These neighbors of yours, have they observed proration?

A. No, sir. That is the reason I tendered these figures, to show how much they have taken out of that particular area.

Q. As a matter of fact the Humble Company is taking oil from you, who are observing proration, but is not taking oil from those who are violating proration?

A. In this particular instance, I know that to be a fact.

Q. That is all.

Questions by Senator Pollard.

Q. How long did the Humble take oil from their well offsetting yours before they took from you?

A. They completed, I would say—I can't recollect the exact date of completion—probably about the 10th of March, up until the first of May.

Q. During that time how much did they take from the well offsetting you each day?

A. I couldn't give you that figure, because it is not available to me. The figures I gave you are for the whole lease, and that is all I was able to obtain.

Q. During all that time the Common purchaser bill was a law of the State of Texas?

A. Yes, sir.

Q. They refused to take oil from anybody until the proration order was entered in the East Texas field?

A. That is the way they informed me.

Q. At the present time the Humble Oil & Refining Company is taking the same amount of oil from their offset well as from yours?

A. Not having the allowable for that lease, I am unable to say.

Q. Do you know how much they are taking out of the well?

A. No, sir; I don't; there would not be a way for me to find out.

Q. Have you seen a letter from the Railroad Commission authorizing the Humble to take all they want to out of their lease?

A. I have not.

Q. Is there such a letter out?

A. It comes to this: Where there is one violator through an injunction secured, the Railroad Commission has an unwritten understanding that the offset has permission to go ahead and run their wells open, to try to overcome the difference in production between it and the producer who has taken out an injunction restraining the Railroad Commission.

Q. When a letter like that is issued, or an understanding like that is made, does that mean the pipeline company will take as much additional oil out of your well as out of the offset they own?

A. I believe that would be fair, but we have had no such help by any of the pipe lines.

Q. I thought you told me this morning the Humble was taking 300 barrels from your well, and from the offset they were taking more oil daily?

A. Must have been someone else, because I don't know, and have not known at any time what they have been taking from that well.

Q. Why were you willing to sell your oil so cheap—because you had no pipeline connections, or because you wanted to sell it cheap?

A. We made trips to Houston, and Tulsa, and other places where we thought we might be able to obtain a pipe line connection for that well. It was standing there. Edward Jones was producing to capacity, and later the Magnolia was producing to capacity. We went to Houston the day before the well came in. We expected a big well, and we were offered a contract by the Crown Central Company—I don't know who their officers are; there is one man by the name of Turner, who is vice-president, I believe—they offered us a contract for 1,800,000 barrels at 37½ cents a barrel at the well. We refused that. There were two reasons for our not accepting that. The

first one was, we had hopes that the Railroad Commission would step in and issue a proration order, whereby we would all be allowed to produce ratably and equitably, and every one get a fair shot at the market. We also had in mind that 37½ cents for oil was much too cheap. We were not doing our royalty owners, nor ourselves, justice by accepting such a price; so therefore, we turned it down, and it looks like we have made a terrible mistake.

Q. Now, had the Railroad Commission and the Attorney General insisted upon a compliance with the common purchaser bill—that is, had forced the oil purchasing companies to have taken from your wells ratably along with the others, would it have become necessary for you to have gone out with your oil and taken a less price than you would have taken otherwise?

A. No, sir; it would not.

Q. In your opinion, the distressed condition of the oil market in East Texas is due to the fact that the pipe line companies would not take oil ratably and would not give connections to small independent producers?

A. I believe that is correct.

Questions by Senator Poage.

Q. I want to ask you one question. What is the Humble paying you for oil now?

A. The month of June we received fifteen cents a barrel, and last Wednesday we called Houston and asked what they were paying, and said they did not know, but they said they hoped it would not be less than fifteen cents a barrel.

Senator Poage: That is all.

The Chairman: Any further questions?

Questions by Senator Pollard.

Q. Does the price you have taken into consideration the pipe line charges and transportation?

A. I couldn't say how it does. When we come into that—when we were operating in West Texas, there was a price, for transporting West Texas oil to the Coast of 44 cents a barrel. That is what they were charging for transporting that oil. Well, this East Texas oil is certainly situated better than West Texas, and I believe the rate to transport that

oil from East Texas to the gulf is around 20 to 22 cents a barrel. If they are paying 25 cents a barrel for West Texas, and have to pay 44 cents more for transportation, that runs that pretty high. Therefore, I figured if West Texas oil was bringing 25 cents a barrel, and it actually cost them 44 cents a barrel for transportation, we should at least be getting 40 cents additional above the price we are receiving now.

Questions by Senator Holbrook.

Q. What are you doing now with your wells, at this moment?

A. We are producing them. We are allowed on this 36-acre tract 613 barrels, under the order issued the 16th of this month.

Q. Are you living up to this order?

A. Absolutely. As a matter of fact, we are about 2000 or 3000 barrels below our allowable since May 1st.

Q. You are selling 613 barrels a day?

A. Yes, sir.

Q. From how many wells?

A. There are six wells on that lease.

Q. What is the capacity of those wells, approximately?

A. I believe those wells even now would produce five or six thousand barrels a day.

Q. Do they appear to be deteriorating?

A. They have to this extent—it is not particularly the manner in which we are handling, but more or less the pressure is being withdrawn by that enormous withdrawal by Jones off his tract, and by the Magnolia, and these others. When our well came in, the pressure was 290 pounds, and I believe it has dropped to around 245 pounds.

Q. Is Jones abiding by the proration orders?

A. Since proration came into effect, he has practically abided by proration.

Q. What is his allowable?

A. His allowable he has exceeded—I have here, on July 16th, his allowable was 1800, and he ran 2000, but he has not exceeded since these figures were available—he has not exceeded proration a great deal.

Q. On what basis would they allow him to run 2000 barrels on ten acres, and you only 613 on 36 acres?

A. The point is the Humble will not take a barrel not produced under the allowable as set by the Railroad Commission.

Q. On what basis did the Commission set your allowable at 613 barrels, and his at 2000 barrels?

A. That was by the week. Our allowable for the week was 9800 barrels.

Questions by Senator Pollard.

Q. And theirs is how much?

A. 1834 barrels on ten acres. But none of the major companies—to my own knowledge, I don't know whether the Humble is taking a barrel not produced under proration.

Q. Where did you get that information? Where can you obtain the allowable on those wells?

A. From the Railroad Commission.

Q. Would they let you have it?

A. Yes, sir.

Q. Can you get that right away. I wish you would get that so we can check it.

Questions by Senator Holbrook.

Q. As I understand your testimony, you state the greatest trouble with the independents is the discrimination by pipe lines; is that correct?

A. By pipe lines as a whole.

Q. That is the trouble?

A. Yes, sir.

Q. Within your knowledge has there ever been any effort on the part of the Railroad Commission to regulate pipe line takings?

A. No, sir, not to my knowledge.

Q. Anywhere on that field?

A. No, sir, not to my knowledge.

Q. Do you understand or do you know whether there is a law now on the statute books giving the Commission power and authority to regulate takings from the pipe lines?

A. I understand there is such a law.

Q. But you don't know of their making any effort to enforce it?

A. No, sir. I neglected to name the pipe lines that were taking the oil, in going over the figures.

Q. What are they?

A. Alvey—that is, the pipe line of which I understand, as I said, that Alvey is a director and one of the organizers.

Q. Is that an independent pipe line?

A. Yes, sir. We begged them for a connection during the eleven days we were shut down.

Q. Is it owned or controlled by any major pipe line?

A. No, sir; I believe it was organized in Sreveport, and I believe Alvey organized it. The Houston Oil Company, of course the Houston Pipe Line takes that oil. The British-American are running their oil to a little gathering system, and the Texas Company is taking that oil to the Coast for them. The Burton Drilling Company, that is being run by the Sabine Pipe Line Company. Cranfill-Reynolds are running their own oil, I don't know whether to storage or to loading racks. Markham & Dunning and Sinclair—while mentioning Sinclair, I would like to tell about our dealings with the Sinclair Pipe Line Company. They promised in Tulsa—promised me in Tulsa a connection; we were there on March 10th, and they said their line would be completed by the first of April and they would absolutely give us a connection. They laid a line through our 3 acres and down to Markham & Dunning, and to this day we have never had a connection from the Sinclair Pipe Line Company.

Q. Have you asked them?

A. No, sir; we just made an effort to obtain it, but never have.

Q. Are they taking oil from others?

A. Yes, sir, from Markham & Dunning, who offset us, and others.

Q. Jones?

A. No, sir; Markham & Dunning are the only ones.

Senator Pollard: What are they paying for it?

A. I don't know. The Burton Drilling Company and the Sabine Pipe Line, Markham & Dunning to the Sinclair Pipe Line, and the Magnolia, of course, to their own pipe line. During April, something I am unable to explain the why or wherefore of, the Magnolia Company, which, as you remember, offsets us on the west—we were running oil then, of course, under proration, we were running to the Southern Drilling and Refining Company; the Magnolia Company came in without asking our permission—a matter of

fact we did not know until the second day, until the superintendent called us or wired us and informed us that they came in there and took four tanks of oil.

Q. From you?

A. From us, yes, sir.

Q. About nineteen hundred barrels?

A. They withdrew their connection. We did not know it until the second day; we did not know they were going out. To this day we have never collected for that oil. There are some technicalities which have held it up.

Q. Do you know how much that is?

A. Well, there were four or five tanks; I imagine it was around nineteen hundred barrels. They sent us a division order about two weeks ago.

Q. What is a division order?

A. That is showing the different owners and showing the lease from which it is taken.

Q. Do you expect to get the money?

A. O, yes, I am sure they will pay us. But why they came in there without our permission or went out without our permission I cannot understand.

The Chairman: Any further questions, Gentlemen?

Senator Woodward: Mr. Chairman, when this witness is through I want to make a statement and a motion.

Senator Purl: I want to ask one question.

The Chairman: All right. Senator Purl.

#### Questions by Senator Purl.

Q. What law do you think we could pass to help the oil business?

A. Well, I know there has got to be something done or the little fellow is gone forever. What it is, I don't know. But I will say this: That if there can be a fair and equitable production by barrels of a lease, just as if everyone produced what the other fellow was allowed to run, and the pipe lines would come in and take from each and all as much as they take for themselves per well and per acre—and I would hate to try to go into that potential, because that potential is disastrous for the little fellow—but if they

would do that, and if there was a law passed that would give everyone a fair deal and a fair crack at the pipe lines, I think our troubles would be over.

Q. Do you think if we regulate pipe lines so that whatever oil you produce can go to a central market on an equal basis the price would take care of itself?

A. Absolutely.

Q. And the law of supply and demand would work as it has for ten million years?

A. Yes, sir.

#### Questions by Senator Holbrook

Q. Some wells yield more than others. Wouldn't you have to make it on a percentage basis?

A. In that case over there, I don't think so. Some of the wells are making thirty, forty, or fifty thousand barrels. I think that field had had one of the fairest potentials taken, because they took it under an eleven-sixteenths inch choke, and, the pressure being so uniform, I think those wells are practically all the same; I don't mean if they are out on the water on the west side or in the sand on the east side. I believe it is a blanket condition of sand that exists there, and the wells are practically the same, and I don't think anyone would be injured by a per well basis.

The Chairman: Any further questions?

Senator Woodruff: I want to ask a question.

#### Questions by Senator Woodruff.

Q. Just what is responsible for the price collapse over there?

A. I don't know whether I told you—I believe I did, that when we were running to the Southern Oil & Refining Company they started us off at thirty-five cents. We worked hard to get this connection. They laid a line from the switch to us, and on the first day of April they cut the price to twenty-five. On the 19th of April the Luling came in with a well and had no connection and wanted to sell some oil and they went to the Southern Oil & Refining Company, and it went to nineteen cents. I believe that will explain your question. They know without being able to get any con-

nections that men who have wells over there and have their bills to pay and probably need money to live on and have to hold the oil without a connection, and then they find the price go down and down and down until they will take anything to obtain money for their oil.

Q. They will take whatever is offered?

A. I believe that is more or less correct.

Q. Why do not purchasers of oil rush in there and make connections—why did they let that condition grow up?

A. Well, they claim that the thing was so big they could not handle it unless it was prorated, so much area covered and the richness of the sand and the size of the wells, they were unable to take care of it. Yet I believe—it is my belief only, perhaps, but I believe if that field under the allowable that came out on the 16th of this month—in other words, we have got six wells over there, and at the present time I think there is slightly over thirteen hundred wells. The way we are prorated, that would be only one hundred and thirty thousand barrels. Then they would be competing against each other until that oil would be worth sixty to seventy-five cents a barrel, I believe, in thirty days.

Q. If the wells that are now producing over there were producing their maximum limit commensurate with sound oil field practice—I don't mean any dissipating or wasting, but all of them producing to their limit, what would be the daily output in that East Texas area, approximately?

A. I would not be surprised but what that field would show around three quarters of a million barrels with the present wells, and maybe more.

Q. If all of the other wells in the State outside of East Texas were producing to their maximum, what would they produce?

A. How much daily would they produce?

Q. Yes.

A. I am not capable of answering that question; I am not familiar enough.

Q. Suppose you make a guess at it.

A. That's all it would be, a guess; because of the vastness of Texas and

the producing fields in Texas, it would be merely a guess.

Q. Well, I don't have any idea of how much it is.

A. Well, what were they producing? I believe some place around eight hundred thousand barrels a day; that is for the State.

Q. Eight hundred thousand a day for the State; that is potential?

A. Oh, that word "potential" is a word that I more or less think they should stay away from. For example, in the Yates Pool they claim to have a potential of away up in the millions barrels, and I believe the testimony of Ray Richmond, who was umpire at the time, when he was questioned he said that they could not reduce voluntarily their allowable from 100,000 to 89,000, because in producing 100,000 barrels a day the water encroachment was coming in and wells had gone to water.

Q. Do you think there is 800,000 barrels produced in the State outside of East Texas—I won't say "potential," but granting that the wells were operating at flush flow?

A. I imagine that the balance of the State would produce half a million barrels.

Q. Then, added to the three-quarters of a million for East Texas and half a million for West Texas and the other parts of Texas would make approximately a million and a quarter barrels in Texas daily?

A. Yes, sir.

Q. What would be the effect on the market price, do you think, if that production were permitted in the State?

A. I don't see how the market price could be any worse than it is, but I imagine that Oklahoma and the other states would produce oil for the price we are receiving over there, which they are more or less doing at this time. That is too much oil to be produced in this State.

Q. That is, from a standpoint of the market it will not absorb that much?

A. I don't think it will.

Q. All right. Then, Mr. Duffy, do you think the Legislature should consider economic waste?

A. Well, that is a question that I don't feel I am—(answer interrupted.)

Q. And keep the allowable down to an amount that the market could reasonably absorb?

A. I believe that would be an ideal situation, to create a firmer price structure.

Senator Woodruff: I believe that is all.

Questions by Senator Pollard.

Q. Mr. Duffy, don't you know as a matter of fact that we are producing one hundred thousand barrels of oil less than produced a year ago?

A. Exclusive of East Texas?

Q. Yes.

A. I don't know that.

Senator Pollard: Well, that is true according to the statistics we have here.

Senator Cousins: I want to ask a question.

Questions by Senator Cousins.

Q. You say the wells ought to be prorated?

A. Yes.

Q. That they are about the same?

A. I am referring to East Texas.

Q. Yes, I am referring to East Texas. Now, what is to keep a man having a tract adjoining another tract from going out and putting down another well, if you are going to allow so much per well—would you limit them?

A. The real bone of contention over there has been the small tracts. Now, whether the big companies advocate one well to ten acres or not, I believe it should be advocated.

Q. Your idea is that there should be one well to ten acres?

A. Yes, whatever their proportionate share of the field is.

Senator Cousins: Thank you.

The witness: I may state, if I may, just what the Railroad Commissioner—Mr. Parker, rather—told me was responsible for these excessive takings above their proration allowable over there, and the first thing that came to mind would be that it would make a case of possible collusion. The Burton Drilling Company, for example, offsetting us on the southeast, took out an injunction against the Railroad Commission and thereafter produced their wells to capacity. Well, then, in turn, as the unwritten law, as I said, it just works as under this commission, and then the next fellow, which was the British-American, and then Jones and the Magnolia and all around there, and we were sitting in there abiding by

proration and watching the oil go.

Q. Is there any way to check those wells, just assuming now it was a law with teeth in it, an enforceable law, to prorate those wells under a system that would work out perfectly good, with men enough—how many men would it take to supervise and watch production and have those people obey the law, assuming that they are all anxious to sell?

A. In East Texas?

Q. Yes.

A. Well, at present it would require quite a number, I imagine, but on the other hand the producer on his lease—he has men responsible to him looking after his interests and if the Humble Pipe Line might take oil it is gauged in the presence of the man in charge and he is given a run ticket for that oil, and therefore the pipe lines are not going to get any more oil than they are entitled to, and that is a check there.

Q. A check through the pipe line?

A. Yes, sir. When turned into the line the producer has his gauger just as the pipe line has its man there.

Q. Suppose they collude and run at night, would you have to watch them at night?

A. I suppose so, yes, sir.

Q. You would have to keep men there at night?

A. Yes, sir.

Questions by Senator Woodruff.

Q. Just one further question, Mr. Duffy. Do you know of any practices over there of purchasers of oil or the operators of leases, in order to avoid an accurate and full accounting to royalty owners or land owners and to the State of Texas, have by-passes around the gauges?

A. That is only hearsay on my part. I do not know from my own actual knowledge.

Q. You don't know of that being done?

A. No, sir.

Q. Is it possible to do that?

A. It would be possible; it could be done, if they would stoop to such a low practice.

The Chairman: Any further questions, gentlemen? If not, Mr. Duffy, I want to express to you our thanks for the information you have given us.

Mr. Chairman: Mr. G. S. Rollin, of St. Louis, with the Dutch Shell Corporation.

(Thereupon, Mr. Rollin was sworn by the Chairman.)

Mr. Rollin: Mr. Chairman, I am not going to make a speech, but I would like to read this brief statement.

The Chairman of your House Committee sent a wire to Mr. E. G. Allen, who is General Field Superintendent of the Production Department of the Shell Petroleum Corporation at Dallas, asking him to come to Austin to testify before this Committee of the House of Representatives. Mr. Allen has been on his vacation in California for about two weeks, and in his absence I came down from St. Louis Friday to be of such service as possible to the Committee, and to answer all questions coming within the purview of my knowledge of the business.

If permitted, I should like to make a brief statement. The problems of the oil industry now before this body should be treated quite frankly. Industry in Texas is, I believe, generally somewhat overfearful of the anti-trust laws of this State. This is due to the feeling that these laws are very stringent, but more particularly to the fact that it is difficult, if not impossible, for those who honestly want to obey the laws to obtain a ruling as to the legality of any proposed action. It is quite certain that no conservation business or business man wishes to become entangled with the anti-trust laws of Texas with its attendant unpleasantness, and therefore industry has been bending backward to avoid any chance of infringement, and perhaps during these times of depression this has resulted in some disadvantage to the interest of the people of the State.

All this is to lead up to the point that discussions with reference to the economic ills of the oil industry have been somewhat avoided, and, in particular, the word "price" has been more or less taboo. It seems to be all right to talk about "costs," I hope prices can be mentioned before this body without subjecting this witness to suspicion of illegal intent.

It would be futile to suggest to you that you should pass legislation to protect or to increase oil values for the benefit of investors, stockholders or any other ownerships in the oil business. Such investors must take

their chances with investors in other lines of business, most of whom are suffering seriously during these times of depression. This is true even though such legislation might rebound to the benefit of that portion of the public dependent for its livelihood upon reasonable prosperity in the oil business. Nevertheless it would be legislation for the benefit of a special class and not permissible.

But, gentlemen, I want to stress this idea, which is not a new one, and I believe according to reports, has been presented before this body and before the Senate: Crude oil and its uses have become tinged with an important public interest which justifies this body in passing legislation adequate to protect that public interest.

During times of great over-production such as this, crude oil and its products are turned to uses which are uneconomic. It is turned into channels in which its intrinsic value is not realized or recovered. Crude and its products are no doubt by far the cheapest source of mobile energy available to the public today. Despite the vast reserve believed to be in sight, every barrel now used is incapable of replacement by natural sources within generations or even ages to come. Overproduction of crude leads to its use for inferior purposes which is economic waste and eventually you may be sure will be against the public interest.

Apparently, under the recent Federal Court decision, the State has no regulatory control over economic waste. The Railroad Commission can consider only actual physical waste. It may not be certain under the recent ruling that they can take cognizance of the underground wastes caused by unrestrained and excessive production which many operators are coming to consider of prime importance.

Sometime, and this should come as soon as possible, the general public interest in prevention of economically wasteful uses of crude oil will be recognized; and this interest will be protected by legislation if at all possible under the Constitution of the State and of the United States. It may well be that regulation of the amount of crude permitted to be raised within the State would affect the price and drive it upward to some extent. Therefore, while conditions of over supply last it no doubt should be within the power and duty of any regulatory



commission set up under such legislation to protect the public against too high prices by increasing the supplies of crude allowed to go upon the market whenever necessary to effect this purpose. The proposal is not to set prices directly for crude and its products by a regulatory body, but to so regulate the supply produced from the ground, with the current demand, that crude would not be used for inferior purposes nor other economic waste be permitted, which, if not prevented, can only lead to the payment of higher average prices by the public for gasoline and the more valuable petroleum products. I would like to repeat that I am presenting only ideas which have previously been expressed by others.

That is about all the statement I have to make. The proposition is merely if you make oil tight in the State of Texas to the extent that it is not used for economic purposes, you are protecting, I think, the interests of the property, and you are getting a fair price for the producer, and as for the company which I represent—let's speak generally—I think the industry has made money only when prices of crude were reasonably high. So far as I know, no purchasing company prefers to pay low prices for crude, and the only reason they pay low prices for crude is because it is offered at low prices and they cannot afford to pay more than other corporations are paying. That is about the situation you are confronted with.

Q. Mr. Rollin, what in your opinion is crude oil in East Texas,—you know the quality of the oil, what is it reasonably worth at this time?

A. Well, if you are speaking of its worth under the law of supply and demand, it is worth about ten cents because that is what you can buy it for, but I think it is too bad to sell it for that. I think the public will pay dearly for it later on in high prices of gasoline. I don't know whether this proposal is the remedy, or not; there is always more or less difficulty with every remedy proposed because it is an intricate subject, but the commission that was empowered to prevent economic waste might think if oil was worth a dollar a barrel in which case they should undertake to regulate the supply coming on to the market until it brought approximately a dollar a barrel,—maybe it

is worth more than a dollar a barrel. Neither East Texas oil, nor oil from West Texas, nor anywhere else, should be used in such a way that it goes for inferior uses. In general the principal use of oil should be to make gasoline, as far as you can make it, and lubricating oil if you can make it. Some grades, of course, do not make lubricating oil. It should be used as little as possible for fuel oil because that is an inferior use for it.

Q. Mr. Holmes testified the quality of that oil being considered, and the general market conditions, and so forth, it was worth a dollar a barrel,—should sell for that. Do you think he is right about it?

A. I think that oil ought to get a dollar a barrel before the public should feel that it was paying too much for the products from such oil. I think that oil should be selling for a dollar a barrel before the public feels that it is being gyped, let us say, by paying too much for gasoline.

Q. What should gasoline sell for?

A. That depends. There are a lot of costs in gasoline besides the cost of the crude oil that the public pays that means no profit as far as refining is concerned. You know that, of course.

Q. I mean just what should it sell for,—a dollar a barrel for crude oil, what should gasoline sell for?

A. You can buy gasoline at the refinery for two or two and a half cents, which is of course too low. It leaves no profit for the refiner, and I don't believe even on ten cent oil I doubt if they are making any money when they pay the freight rate and pipe line rate they are charged with. You have to add to that two and a half cents more freight, to three cents, depending on where it is going to go, maybe four cents in some places, and a cent and a half to the distributor who is entitled to that much because he has an investment in tankage and tank wagons and has to hire men to distribute it, and the filling station prices are never less than three cents, and in many cases four cents, and then of course you have your tax. I don't know what it figures up to, but about ten or twelve cents above the value of the gasoline at the refinery. That is a rough way to figure it, that is to try to get back to your barrel of oil, but of course

you have to figure the other products of the oil.

Q. Does this Shell operate a pipe line in Texas?

A. We have some pipe lines here, but it is not the Shell Petroleum Corporation, with which it is affiliated, it is the Shell Pipe Line Company.

Q. You are an executive of your company?

A. I am Vice President in charge of production for the Shell Petroleum Corporation.

Q. Is it your idea that what is known as the common purchaser act in Texas should be rigidly enforced?

A. I should think so.

Q. Does your company favor a pipe line bill that would really put cheap in the law so it would be enforced?

A. I don't know what you mean by pipe line bill because pipe lines as a rule do not purchase any more than railroads.

Q. Well, ratable takings?

A. Yes, I believe in that.

Q. Then your company would have no objection to a fair ratable taking bill?

A. No, sir.

Q. Is your opinion, Mr. Rollin, if from the beginning the production in East Texas pipe lines, or purchasers of oil or whoever it should be had taken ratably would you have had the present price condition in East Texas?

A. I think you would have to go further, you would have to put a limit on the amount of oil offered.

Q. What limit would you place on that?

A. I think perhaps that is a leading question, I mean I think it is a question that should be decided after a good deal of study to see that none of such oil should go into use for inferior purposes. Do you see what I mean? I believe if we had a hundred or a hundred and fifty barrel outlet that oil would still be selling for fifty cents a barrel or maybe a dollar a barrel, I don't know.

Q. I believe that Mr. Holmes testified that today they were producing approximately a hundred thousand barrels of oil a day less than they were a year ago, less than we are consuming?

A. I believe that is true of the last weekly statement, when the pro-

ducers in Oklahoma City decided to shut down until they got a better price, they shut off a hundred thousand barrels. We have been running, over the last year and a half, we have been running a little oil out of storage.

Q. You have been producing less from the wells than you consume?

A. Yes, sir, we have been running a little from storage.

Q. That being true, why is it that the price of oil generally is one third less than it was a year ago?

A. I think that is the same thing as wheat prices; you still have a heavy stock of wheat on hand and there is a heavy crop coming in and in the oil business I think you have over-storage, I think we took out of storage over a year and a half something like forty millions barrels and we have six hundred to six hundred and fifty million barrels in storage, and refined product, which does not reflect your story picture sufficiently to meet the crude price. On the other hand you have these tremendous reserves that can be thrown on the market indiscriminately at any time.

Q. Let me ask you another question. The price of crude oil is determined to a great degree by the law of supply and demand?

A. I think so.

Q. What ever, if any does it make in arriving at the supply whether the oil is in storage on top of the ground or under ground?

A. I don't think it is very much difference, if you know it can get out without restriction.

Q. Then why will proration, which simply keeps it underground instead of above ground, affect the price of oil?

A. What I am proposing is that this State should regulate the amount of oil that comes out of the ground to the point where oil will go up.

Q. And what would you recommend?

A. That gets back to what I am trying to tell you, that the Commission should determine how much oil the market can absorb without using crude oil for inferior purposes, I think that is capable of being found out.

Q. Would you make that regulation on the basis of a hundred thousand barrels less than was being con-

sumed, so the storage tanks could be emptied?

A. I don't think it would do a bit of harm. In the first place I think it would be of material help to the present producers and in the long run I think it would be a help to the public by reason of averaging prices for highly valuable refined products.

Q. Now what part of the daily supply would you allow to Texas, Oklahoma, California and other oil producing states, and what proportionate part would you import and what part do you run out of storage?

A. Well, that is a matter of allocation by States. I think a fair way to do that would be somewhat on the basis of potential production. You are thinking of this Oil States Advisory Committee?

Q. Not particularly. I just wanted to know State by State.

A. They have no method of allocating State by State; the point is the State should look after its own interest. They should have the purpose and idea of undertaking to boost up its own prices without reference to what they do in other States. You are going to be limited by what amount is put on the market in the other States, if you can't get State agreement.

Q. Suppose the State of Texas produces it production a hundred thousand barrels a day, and Governor Murray has his bridge guarded and don't allow any oil to come in and he decreases his production a hundred thousands barrels a day, what have you got?

A. You haven't got anything, and if you turn three hundred thousand barrels on the market you will see what would happen. That is the reverse of what happened in East Texas.

#### Questions by Senator Purl.

Q. You said you are a Vice President of the production of the Dutch Shell?

A. No, the Shell Petroleum Corporation.

Q. Have you any holdings in Van, Texas?

A. Yes, sir, a small percentage, I think it is 2.47 per cent of the present production.

Q. Is your company a party to the agreement whereby the Pure Oil

Company will operate that field for a certain time?

A. Yes, sir.

Q. Is that a written agreement?

A. I think it is a letter agreement, and I am quite sure there is a written contract.

Q. Who represented your company with reference to that agreement?

A. I was in the conference with reference to the arrangement of unitization, and the President of our company at that time was also there, that was Mr. Daly.

Q. Was a copy of that agreement ever filed with the Railroad Commission of Texas as well as you know?

A. We are not the operators of the pool and I don't know.

Q. Was each party of the contract furnished a copy of the agreement?

A. Yes, sir.

Q. Where would your copy be?

A. I think it is in the St. Louis office.

Q. Would that company have any objection to turning over to the Committee a copy of it?

A. Well, I don't know, I would not have any objection myself, but I would not have control of that matter. I am not a lawyer. Should a copy of that be filed with the Railroad Commission?

Q. When the question was brought up, when Mr. Holmes was on the stand the statement was made by some Senator that it was perhaps in the office of the Railroad Commission?

A. I could not say, because we are not the operators and it is up to the attorney to handle the legal end of the matter.

Q. What was that agreement in substance?

A. I cannot recall it in detail, just roughly, but each proportionate part of the area to be unitized was allocated to the companies, I am quite sure, on the bases of acreage, with the understanding that later on readjustment would be made on the bases of productivity, on the production of the pool, and the Pure Oil Company had eighty per cent of the pool, so it was agreed that that company should be appointed as the operator.

Q. Did your company agree that you would not operate in that field?

A. No, sir, we held a producing lease in the field outside of the unitized area.

Q. What was the concession you had to make in order to carry out the contract?

A. We did not make any concession, we got in on the same basis as everybody.

Q. What did you agree not to do or to do?

A. We agreed that the operation of the property is in the hands of the Pure Oil Company for the benefit of the unitized block, but we happened to have one or two leases outside of the block, like some of the other operators have.

Q. What was the advantage, if any, do you consider in making this sort of agreement?

A. Particularly in reduction of cost of operation.

Q. And not to curtail the supply in any way?

A. None at all.

Q. It was stated by another witness who testified here, if this is out of order I will withdraw the question, they said that the Dutch Shell Company—is that any relation of yours?

A. The Shell Petroleum Corporation is a subsidiary of the Shell Union, which is a Delaware Corporation, and I suppose you know that it is listed on the New York Stock Exchange. Something over a majority of the Shell Union is owned by the Dutch Shell group.

Q. It is stated that the Dutch Shell is controlled by the British Government, and it is my further information that under the laws of the British government no alien can own or purchase oil in the British territory, is that your understanding?

A. It is my understanding that the British Government has nothing to do with the Dutch Shell. They do have something to do with the Asiatic Group.

Q. Do you know whether or not it is true that an alien cannot own or control oil in the British territory?

A. I don't know for sure, but I think that that has been settled by an investigation made by the United States Government and I think the Shell has been given a clean bill of

health, I think the records are available in the office at Washington.

Q. Will you make an effort, if it is not inconsistent with the policy of your company, to mail to this Committee a copy of that contract?

A. I will endeavor to get it, I cannot promise it, because that is not within my jurisdiction.

Questions by Senator Woodward.

Q. Your company is a subsidiary to the Dutch Shell?

A. As I stated.

Q. And the Dutch Shell and its other subsidiary companies are the largest importers of crude oil into the United States, aren't they?

A. I don't think that is so by a long ways. They do import some.

Q. How much did you import in 1930?

A. I don't know, I couldn't state, —that is the Shell Union perhaps.

Q. You said you were Vice President of your company?

A. Of the Shell Petroleum Corporation.

Q. Do you endorse as a public policy of importing foreign oil into the United States duty free?

A. That is a matter I think, I think that is a political question and is entirely up to the Government of the United States, and the people of the United States to settle. We do not undertake to settle political questions at all.

Q. I say do you approve it?

A. I say as a means of conservation, if you want to save your oil, one way to do it is to import oil for the benefit of your own consumers, however there are arguments on the other side of the question.

Q. I was simply asking your own view, I thought I would just ask you if you thought it was fair to import oil, — — —

A. I think it is debatable. I think the argument is sound, that you should import your crude instead of using your own. Well, I think it is entirely debatable. As I say, from a conservation standpoint, I believe the argument is sound that you should import the crude you are going to use, instead of using your own reserve. However, you must consider to some extent fairness to your local oil industry.

Q. If you imported oil, and conserved all our own oil, it would work

a considerable hardship on the land owner, wouldn't it?

A. Absolutely.

Q. He wouldn't have any market for his oil?

A. No; not if they imported a considerable quantity of it.

Q. That is all.

Questions by Senator Berkeley.

Q. You stated that, in your judgment, it was beneficial to the oil industry to pay a good fair price for crude oil?

A. I said that, because I am quite sure statistics will bear me out that the oil companies have made money when the crude oil price was up, and have lost money when the price was low.

Q. You further stated the only reason you are interested in purchasing oil at the prevailing price scale is because it was offered to you?

A. I mean our competitors are purchasing it for that price, and we cannot afford to pay more.

Q. How do you reconcile that statement in view of the fact that the consumer desires to get every dime he can out of his product, but the price is set by the postings of these major companies?

A. The consumer of gasoline?

Q. I am talking about the oil.

A. Are you talking about the producer?

Q. I am talking about the price of crude oil that is based upon the postings of these major companies.

A. Not entirely, because in East Texas until recently there was no posted price there for quite a while. The point of the matter is there was so much oil put on the market by people who were ready to sell or who had to sell. They were willing to sell at a lower price, and there was enough of that going on the market to break the price structure down, and it not only broke it down there, but in other places. It was the quantity of oil that came on the market below the posted price, as I see it, that broke the market down.

Q. But the consumer—

A. You mean, the consumer, or purchaser?

Q. I am talking about crude oil—the producer of that oil would very much desire to get a dollar a barrel for it?

A. Sure.

Q. Why didn't he?

A. Because so much came on the market. Producers were willing to sell it, even if it went down, and it went down, and down, until it got as low as ten cents. If large quantities of oil come on the market at a low price, it will drop it down.

Q. I thought the reason they sold it for that ten cents was because they could not get any more?

A. No; the posted price was so much. As a matter of fact, for purchasers there is a limit to what they can take or want.

Questions by Senator Hopkins.

Q. In reference to the agreement in the Van field, as an official of your company, could you state when that agreement was drawn and where?

A. I should say that agreement was about two years old, something like that—must be a year and a half or two years old; and I don't know where it was drawn, perhaps in Chicago, by the Pure,—I don't recall, but I think the contract was passed around for signature.

Q. It is your recollection it was drawn in Chicago?

A. I don't say it was, but probably it was drawn in Chicago; I could not say for sure; I said that as a supposition, because the Pure was the manager.

Q. And the Pure's principal home office is in Chicago?

A. Yes.

Q. Do you know what individual drew the contract? Was it an official or attorney for the Pure, or an attorney for the Shell, or what individual had the actual drawing of that contract?

A. I don't know of my own knowledge who drew it.

Q. Do you know whether or not that contract was a result of a conference composed of representatives of the operators in that field?

A. I don't think that there was a common conference of everybody at any time in connection with that proposition at all. It was discussed by one or two officials getting together to determine whether they wanted to put their acreage into that kind of pool.

Q. Was there any conference of any magnitude composed of representatives of major companies operating in that pool held at any time, to your knowledge?

A. Not to my knowledge. My recollection of the conference we had, I don't think anyone was there representing other companies, except one or two Pure officials.

Q. The only conference you had was one at which you attended composed of officials of your company and the Pure?

A. Yes, sir; that is my recollection.

Q. Where was that conference held?

A. I think it was in Dallas.

Q. Has there ever been any such agreement of some sort to operate a pool in this manner under the unitization plan, known to you?

A. It differs in detail. The Kettleman Hills, which has a unitization plan, has in effect the same purposes, that is, economy of operation. I think, however, it differs in detail.

Q. May I ask you whether or not it was the purpose of the unitization plan to stabilize the price? Was that the purpose of it?

A. No.

Q. The purpose was to limit total production of oil?

A. No. The purpose was to reduce the costs of operation.

Q. Just to reduce the costs of operation?

A. Yes, sir.

Q. Then, the factor of production—over-production or under-production, did not enter into it?

A. No.

Q. Then, there was no intent, primarily, in reaching the agreement, to conserve the oil?

A. No; nothing of that kind, because the market was not discussed at the time. The amount of oil to be taken out of that was not discussed, and did not enter into the contract.

Q. Following that line of thought, is it necessary or advisable, in your opinion, to conserve oil, as suggested in this Legislature, that a unitization plan be adopted in each and every pool?

A. No, sir; it is not necessary to unitize at all. The purpose of unitizing is to reduce your costs. I think it is a very good plan, as it can't help but eventually benefit the public, by reason of the fact that it reduces costs.

Q. I have understood you advocated personally,—and perhaps re-

flected the attitude of your company—the powers of setting what the market demand is should be given to enforcing agencies of this State?

A. To the State of Texas, yes, sir.

Q. May I ask this question: In your opinion, giving the power to prescribe market demand, and basing production thereon, is in effect, is it not, opening an avenue for the setting of a price?

A. I think that is exactly what would happen, except it would be under Governmental supervision.

Q. Then you reflect the attitude of your company in advocating a State stabilized price in oil?

A. I think the people of the State are entitled to supervision that will get for them conservation of their oil and minerals, and will get for them a proper price for them.

Q. That leads to a State controlled price setting scheme?

A. I think so, I don't mean they should set a dollar a barrel, but they can effect their purposes by regulating the supply coming on the market.

Q. To the extent of regulating supply, it would indirectly regulate price?

A. That is right.

Q. Do you think you would have a workable conservation bill on oil in the State of Texas without that market demand feature in it, so as to achieve the results you seek?

A. You can effect conservation to an extent, as you already have, by prevention of physical waste. That, in a way, is conservation; but I don't see that it goes all the way in conservation.

Q. Then, unless legislation be enacted at this time carrying the market demand feature, you would be of the opinion that the existing laws would serve as adequately as a new law could?

A. Yes; but I don't think the present law is sufficient to handle the situation; we have so much over-production, I don't know how long it will continue.

Q. Any new legislation should have included within it the market demand feature in the hands of the Commission?

A. I don't think it would be effective in curing the situation, unless it does.

Q. You are familiar with the common purchaser pipeline bill in Texas?

A. That don't have anything to do with that phase of the matter, but in a general way perhaps. I haven't read the bill.

Q. May I ask if your pipeline corporation—that portion of your group that handles the transportation and purchasing of oil—about what per cent of the oil carried through its pipe lines is its own oil, and what per cent is purchased from others?

A. About fifty per cent.

Q. Fifty per cent of the total amount run has been other than your own oil?

A. I think that is about right. Our production department operates in Kansas, Oklahoma, Texas, Arkansas, and Louisiana.

Q. You would not differentiate between Texas, Oklahoma, and Kansas, and so on?

A. I would not be able to give you the separate percentages.

Q. If, in your opinion, that common purchaser and ratable taking law were stringently enforced, would it not achieve approximately the same results in regard to total production as could be obtained under the creation of a new agency to handle that matter?

A. Offhand, I should say not, without further study, because I think it is a question of how much oil is available to the market that determines whether the situation is going to be properly handled or not.

Q. That is all.

Questions by Senator Poage.

Q. Who is the President of the Shell Petroleum Association.

A. His name is Vanderwoodie.

Q. He lives in the United States?

A. He lives in St. Louis.

Q. As to this Shell Union, do you buy any oil from them?

A. No; I am quite certain we don't.

Q. And the Shell Petroleum does not import any oil?

A. We import from Mexico about 300,000 barrels a year; that is a little less than 1000 barrels a day. We use that for road asphalt purposes.

Q. You don't import, in a general way?

A. No; we are exporters.

Q. Well, now, Mr. Rollin, do you know anything about the contracts the Shell Union has, as to how they

acquire land in foreign countries, whether under lease, government concession, or purchase?

A. You are talking about the Royal Dutch Shell, I suppose. The Union Shell operates only in this country and Canada.

Q. I am talking about the world-wide organization. Mr. Holmes came here and frankly told us all he knew about his organization.

A. I want to do the same thing.

Q. I want to know how they handle the importations. If you don't know it, I would like to know who does know it.

Q. We know what we generally speak of as the Shell as we speak of the Standard and independents, as a very vague figure of speech; but what the layman calls the Shell oil interests does import oil into the United States?

A. They import principally gasoline into the East Coast and export out of the Gulf Coast.

Q. On the Gulf Coast, where there are some subsidiary refineries. Now, what we want to know is, if you know, and if not, we will have to get somebody else, whether there are provisions of the concessions under which the Shell operates in foreign lands whereby they must complete their operations within a limited period of years and sales of their products must be made in a limited number of years?

A. Well, I think that is true, but I believe most of those concessions that they have are rather long-lived; that is my impression.

Q. As a general thing have you an idea how long those concessions might run?

A. I have no idea to the length of life of those in Venezuela, but I understand that some of the concessions in Java and the East Indies were for about seventy-five years, and they have about fifty years to run.

Q. Is it possible that there are some of the concessions that will expire in eight or ten years, or do you know about that?

A. I don't believe that is true, because I don't think they have been in Venezuela very long, and in view of what I am sure they would require on a concession before they would spend a lot of money on it.

The Chairman: Any further ques-

tions, Gentlemen? If not, I want to thank Mr. Rollin for his patience and express the appreciation of the committee for his remaining over to testify.

Thereupon at 6:45 o'clock p. m. the committee adjourned, to reconvene after the Senate has finished its business Tuesday morning, July 28, 1930, opening at 9:30 a. m.

#### **TENTH DAY.**

Senate Chamber,  
Austin, Texas,  
July 28, 1931.

The Senate met at 9 o'clock a. m., pursuant to adjournment, and was called to order by Lieutenant Governor Edgar E. Witt.

The roll was called, a quorum being present, the following Senators answering to their names:

Beck.	Parr.
Berkeley.	Parrish.
Cousins.	Patton.
Cunningham.	Poage.
DeBerry.	Pollard.
Gainer.	Purl.
Greer.	Rawlings.
Hardin.	Russek.
Holbrook.	Small.
Hopkins.	Stevenson.
Hornsby.	Thomason.
Loy.	Williamson.
Martin.	Woodruff.
Moore.	Woodul.
Neal.	Woodward.
Oneal.	

Prayer by the Chaplain.

Pending the reading of the Journal of yesterday, the same was dispensed with on motion of Senator Woodward.

#### **Petitions and Memorials.**

(See Appendix.)

#### **Committee Reports.**

(See Appendix.)

#### **Bills and Resolutions.**

By Senator Purl:

S. B. No. 11, A bill to be entitled "An Act to amend Senate Bill No. 626, passed by the Regular Session of the Forty-second Legislature by

adding thereto a new section to be known as Section 1-A, providing for the transfer of a sum of money in the amount of \$635.18 from one appropriation to another appropriation made in House Bill No. 397, passed during the Regular Session of the Forty-second Legislature, 1931, and declaring an emergency."

Read and referred to Committee on Finance.

#### **Simple Resolution No. 10.**

Senator Williamson sent up the following resolution:

Whereas, The present Special Session of the Legislature was called for the specific purpose of considering legislation looking to the better conservation of the State's natural resources; and

Whereas, The length of said session is fixed by the Constitution at thirty days, of which fourteen have now been consumed, and no legislation has yet been considered by the Senate as a whole; therefore, be it

Resolved, That the State Affairs Committee now conducting hearings be directed to close said hearings not later than Wednesday, July 29, and to report pending bills at the earliest date possible to the Senate for its consideration.

**WILLIAMSON.**

The resolution was read.

Senator Pollard moved to lay the resolution on the table subject to call. The motion prevailed.

#### **Appointment Announced.**

The Chair announced the appointment of Otis Crow as an honorary page of the Senate without pay.

#### **Simple Resolution No. 11.**

Senator Neal sent up the following resolution:

Whereas, some twenty-five to sixty members of Camp Waldemar, one of the most popular girls' camps in Texas and the South, at Kerrville, are to come to Austin today, and

Whereas, These representatives come from many states of the Union, and from many localities of Texas, and

Whereas, The members of this